STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a	**:**	
Ameren Illinois	**:**	
	:	**20-0381**
Rate MAP-P Modernization Action	**:**	
Plan - Pricing Annual Update Filing.	**:**	

<u>PROPOSED ORDER</u>

November 6, 2020

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PROPOSED ORDER

By the Commission:

I. INTRODUCTION

Section 16-108.5 of the Public Utilities Act ("Act"), the Energy Infrastructure Modernization Act ("EIMA"), provides that an electric utility or combination utility (providing electric service to more than one million customers in Illinois and gas service to at least 500,000 customers in Illinois) may elect to become a "participating utility" and voluntarily undertake an infrastructure investment program described in that Section. 220 ILCS 5/16-108.5(b). A participating utility is allowed to recover its expenditures made under the infrastructure investment program through the ratemaking process, including, but not limited to, the performance-based formula rate and process set forth in Section 16-108.5. *Id*. The performance-based formula rate shall be implemented through a tariff that is consistent with the provisions of subsection (c) of the EIMA and with Illinois Commerce Commission ("Commission") practice and law. 220 ILCS 5/16-108.5 (c).

Section 16-108.5(d) of the Act requires a participating utility to file, on or before May 1 of each year, with the Chief Clerk of the Commission, its updated cost inputs to the performance-based formula rate for the applicable rate year and the corresponding new charges, based on final historical data reflected in the utility's most recently filed annual Federal Energy Regulatory Commission ("FERC") Form 1, plus projected plant additions and correspondingly updated depreciation reserve and expense for the calendar year in which the inputs are filed. 220 ILCS 5/16-108.5(d).

On January 3, 2012, Ameren Illinois Company d/b/a Ameren Illinois ("AIC," "Ameren," or the "Company") filed with the Commission its performance-based formula rate tariff, Rate MAP-P Modernization Action Plan—Pricing Tariff ("Rate MAP-P"), initiating Docket No. 12-0001. That docket established the terms of the formula.

On April 14, 2020, AIC filed its ninth annual update of cost inputs pursuant to Section 16-108.5(d) of the Act, initiating this docket. In this docket, the Commission will establish a new revenue requirement to take effect on January 1, 2021, based on the historical FERC Form 1 reports for 2019 and projected plant additions for 2020, and reconcile the revenue requirement in effect for 2019 with actual costs for 2019. The reconciliation balance will be added to the new revenue requirement and collected in rates beginning on the first billing day of the January billing period following the date of the Final Order in this proceeding.

In addition to AIC, Staff of the Commission ("Staff"), the Office of the Illinois Attorney General ("AG"), and the Citizens Utility Board ("CUB") participated in this proceeding.

An evidentiary hearing was held before a duly-appointed Administrative Law Judge ("ALJ") in this matter on September 2, 2020. AIC, Staff, and the AG submitted testimony and other evidence at the evidentiary hearing. At the conclusion of the evidentiary hearing, the record was marked "Heard and Taken."

At the time of the evidentiary hearing, seven issues remained contested among the parties: Cash Working Capital – Electric Distributions Tax ("EDT"), Customer Advances – Distributed Energy, Amortization of Excess Deferred Income Tax ("EDIT"), Executive Compensation Expense, Board of Directors Expense, Advertising Expense (Voucher No. 3637279) and Formula Rate Changes – Schedules A-3 and A-4. On September 22, 2020, AIC, Staff, AG, and CUB filed Initial Briefs on the contested issues, and on October 9, 2020, filed Reply Briefs on these issues. Also, on October 9, 2020, AIC, Staff, AG, and CUB filed Statements of Position and Suggested Conclusions on the contested issues, and jointly filed a Limited Agreed Draft Order on all other issues, for the ALJ's consideration.

II. LEGAL STANDARD

The provisions of EIMA, specifically, Section 16-108.5(c), provide in relevant part:

> The performance-based formula rate shall be implemented through a tariff filed with the Commission consistent with the provisions of this subsection (c) that shall be applicable to all delivery services customers. The Commission shall initiate and conduct an investigation of the tariff in a manner consistent with the provisions of this subsection (c) and the provisions of Article IX of this Act to the extent they do not conflict with this subsection (c). Except in the case where the Commission finds, after notice and hearing, that a participating utility is not satisfying its investment amount commitments under subsection (b) of this Section, the performance-based formula rate shall remain in effect at the discretion of the utility. The performance-based formula rate approved by the Commission shall do the following:
>
> (1) Provide for the recovery of the utility's actual costs of delivery services that are prudently incurred and reasonable in amount consistent with Commission practice and law. The sole fact that a cost differs from that incurred in a prior calendar year or that an investment is different from that made in a prior calendar year shall not imply the imprudence or unreasonableness of that cost or investment.

220 ILCS 5/16-108.5 (c). Section 16-108.5(d), provides in relevant part:

> Subsequent to the Commission's issuance of an order approving the utility's performance-based formula rate structure and protocols, and initial rates under subsection (c) of this Section, the utility shall file, on or before May 1 of each year, with the Chief Clerk of the Commission its updated cost inputs to the performance-based formula rate for the applicable rate year and the corresponding new charges.

220 ILCS 5/16-108.5(d). Section 16-108.5(d) further specifies the requirements for this annual filing as follows:

> Within 45 days after the utility files its annual update of cost inputs to the performance-based formula rate, the Commission shall have the authority, either upon complaint or its own initiative, but with reasonable notice, to enter upon a hearing concerning the prudence and reasonableness of the costs incurred by the utility to be recovered during the applicable rate year that are reflected in the inputs to the performance-based formula rate derived from the utility's FERC Form 1. During the course of the hearing, each objection shall be stated with particularity and evidence provided in support thereof, after which the utility shall have the opportunity to rebut the evidence. Discovery shall be allowed consistent with the Commission's Rules of Practice, which Rules shall be enforced by the Commission or the assigned hearing examiner. The Commission shall apply the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, in the hearing as it would apply in a hearing to review a filing for a general increase in rates under Article IX of this Act.
>
> . . .
>
> In a proceeding under this subsection (d), the Commission shall enter its order no later than the earlier of 240 days after the utility's filing of its annual update of cost inputs to the performance-based formula rate or December 31.
>
> . . .
>
> A participating utility's first filing of the updated cost inputs, and any Commission investigation of such inputs pursuant to this subsection (d) shall proceed notwithstanding the fact that the Commission's investigation under subsection (c) of this Section is still pending and notwithstanding any other law, order, rule, or Commission practice to the contrary.

Id.

Section 16-108.5(d) further specifies the requirements for the reconciliation filing as follows:

> The filing shall also include a reconciliation of the revenue requirement that was in effect for the prior rate year (as set by the cost inputs for the prior rate year) with the actual revenue requirement for the prior rate year (determined using a year-end rate base) that uses amounts reflected in the applicable FERC Form 1 that reports the actual costs for the prior rate year. Any over-collection or under-collection indicated by such reconciliation shall be reflected as a credit against, or recovered as an additional charge to, respectively, with interest calculated at a rate equal to the utility's weighted average cost of capital approved by the Commission for the prior rate year, the charges for the applicable rate year. Provided, however, that the first such reconciliation shall be for the calendar year in which the utility files its performance-based formula rate tariff pursuant to subsection (c) of this Section and shall reconcile (i) the revenue requirement or requirements established by the rate order or orders in effect from time to time during such calendar year (weighted, as applicable) with (ii) the revenue requirement determined using a year-end rate base for that calendar year calculated pursuant to the performance-based formula rate using (A) actual costs for that year as reflected in the applicable FERC Form 1, and (B) for the first such reconciliation only, the cost of equity, which shall be calculated as the sum of 590 basis points plus the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication. The first such reconciliation is not intended to provide for the recovery of costs previously excluded from rates based on a prior Commission order finding of imprudence or unreasonableness. Each reconciliation shall be certified by the participating utility in the same manner that FERC Form 1 is certified. The filing shall also include the charge or credit, if any, resulting from the calculation required by paragraph (6) of subsection (c) of this Section.
>
> Notwithstanding anything that may be to the contrary, the intent of the reconciliation is to ultimately reconcile the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its performance-based formula rate tariff pursuant to subsection
>
> (c) of this Section, with what the revenue requirement determined using a year-end rate base for the applicable

> calendar year would have been had the actual cost information
> for the applicable calendar year been available at the filing date.

Id.

III. AIC'S PROPOSED REVENUE REQUIREMENT

AIC's proposed rebuttal net revenue requirement for AIC's electric formula rate (after consideration of the filing year and reconciliation year revenue requirements, with interest and the return on equity collar) is $964,762,000. AIC's proposed update to its formula rate delivery service revenue requirement results in a decrease of $45,150,000 (-4.47%) from the electric revenue requirement ordered by the Commission in Docket No. 19-0436. The rebuttal net revenue requirement calculations use a rate of return of 6.393% for the filing year and 6.358% in the reconciliation year. The rebuttal net revenue requirement calculations reflect the revenue requirement for the filing year, $983,045,000, the reconciliation adjustment, ($12,250,000), and the ROE adjustment, ($6,033,000).

IV. RATE BASE

A. Uncontested or Resolved Issues

1. Asset Separate Project ("ASP") Rate Base Corrections

Staff proposed certain adjustments to reflect the corrections to AIC's ASP as of the end of 2019 to reflect plant asset allocation changes agreed to by AIC in its pending Gas Rate Case, Docket No. 20-0308. AIC agreed and reflected these corrections in its rebuttal schedules, Ameren Exhibit 12.1.

The Commission finds that the agreed-upon proposed corrections to ASP allocations for common general and intangible plant assets as of the end of 2019 are uncontested, and therefore adopts the proposed corrections for use in this proceeding.

2. Cash Working Capital – Lead Lag Expense Leads

The parties agree on the methodology to calculate Cash Working Capital ("CWC") for the final revenue requirements ordered by the Commission in the instant case, and for all leads and lags, except for the Electric Distribution Tax ("EDT"), which remains contested by Staff and the AG. On rebuttal, AIC agreed to Staff and the AG's proposed exclusion of adjustable block payments and correction to the calculation of lead days (except EDT). With the exception of the contested CWC EDT issue, no other party opposes the calculation of CWC.

Subject to its determination on the EDT, the Commission finds that the agreed amount of CWC is reasonable and uncontested, and therefore adopts the parties' agreed amount of CWC.

B. Contested Issues

1. Cash Working Capital – Electric Distribution Tax ("EDT")

a. AIC'S Position

AIC explains that credit memoranda related to the EDT affect the Company's cash flows, and therefore AIC proposes to include the impact of receipt of those credit memoranda in its CWC determination. By including the credit memoranda, AIC argues, the EDT lead/lag analysis more accurately reflects the Company's actual cash flow experience and provides a more accurate analysis of cash receipts and cash outflows. AIC notes that Staff agrees that the credit memoranda should be included in the determination of CWC, but that Staff disagrees with AIC regarding which year's credit memorandum to use (2018 or 2019) as well as the appropriate service period. AIC asserts that the 2019 credit memorandum is the proper memorandum to use for CWC analysis. However, if Staff's position is adopted and the 2018 credit memorandum used, AIC argues the Commission should correct it so that the service period reflects the tax year that the credit memorandum was based upon (calendar year 2017).

AIC explains that CWC represents the funds necessary to finance a utility's day-to-day operations. CWC bridges the gap between the time when funds are provided to the Company by investors to allow the Company to provide service to customers, and the time revenues are received from customers as reimbursement for that service. CWC is included in rate base to compensate those investors for the use of the funds required by the Company for daily operations. AIC further explains that in order to determine how much cash is necessary to meet operating expenses, the Company must understand the timing of its cash inflows and outflows. Ameren uses a "lead-lag" study to assess the differences between the revenue lags and expense leads. Ameren Ex. 1.0 at 56; *see* 35 ILCS 620/1 *et seq*. The installment payments for EDT in 2019 are included in Ameren's lead/lag analysis. Ameren Ex. 1.0 at 56. The Company's proposal also reflects the actual EDT credit memorandum (explained more fully below) received in December 2019.

AIC explains that EDT is a tax that Illinois law imposes on utilities, like Ameren, that distribute electricity in the state, based on the volume of kilowatt-hours the utility sells in a year. *Id*. The tax is paid in four quarterly installments on the 15th of March, June, September, and December each year. 35 ILCS 620/2a.2. The first payment includes a true-up for the prior year. AIC notes, however, the law also provides for a credit if the state collects more than a cap set forth in the statute, which is set forth in a "credit memorandum." *Id*.; 35 ILCS 620/2a.1(c).

AIC states that EDT is remitted to the State in March of each year, as the law requires Ameren to file a return with the Illinois Department of Revenue, on which Ameren states the number of kilowatt-hours it sold in the prior year (Year 0). Ameren Ex. 1.0 at 56. In the year the return is filed (Year 1), the utility makes quarterly payments equal to one-fourth the total number of kilowatt-hours sold in Year 0, multiplied by the tax rate in Year 0; and in March of the following year (Year 2), Ameren will again file a return stating its actual total kilowatt-hours sold in Year 1. During Year 2, Ameren will make quarterly payments based on the total Year 1 sales, and so forth. *Id*. at 57. AIC concludes, since the EDT payments a utility makes during any year are estimated, based on the utility's sales in the prior year, the payments made in any given year will not be equal to the tax liability generated by the kilowatt-hours sold during that year.

AIC notes that since the EDT payments Ameren makes in any given year are estimated, when Ameren submits its annual EDT tax return to the Department of Revenue, Ameren also compares the actual payments in Year 1 to the actual kilowatt-hours sold multiplied by the tax rate in Year 1. AIC explains, if there is an amount due, it is paid to the

Department of Revenue by Ameren with the annual tax return, or, if a refund is due, it is applied to the next quarterly payment. *Id*.

AIC explains that if the total amount received by the Department of Revenue from the EDT exceeds the statutory cap (approximately $145 million), the Department of Revenue will issue credit memoranda. 35 ILCS 620/2a.1(c). Credit memoranda reduce EDT payments only when the next quarterly payment is due after receipt of the credit memoranda. Ameren Ex. 1.0 at 58. For example, a credit memorandum Ameren received in December could not be applied by the Company to lower its cash outlay to Department of Revenue until its next EDT payment, which occurs in March of any given year.

Furthermore, AIC explains that the Company has a long-standing and consistent history of receiving refunds for EDT. In the nine years between Docket No. 12-0001 and the current case, Ameren has received large credit memoranda, in amounts that average more than $5.7 million dollars. AIC states that these credit memoranda are now issued on a routine basis, including in each of the last seven years, in December for the prior year, indicating that the Department of Revenue has issued and can be expected to issue credit memoranda in relatively similar amounts, and on a consistent annual basis. *Id*. at 60.

AIC further explains that credit memoranda reduce EDT payments to the Department of Revenue when the next quarterly payment is due after receipt of the credit memoranda. *Id*. at 57. Thus, credit memoranda affect the amount of the quarterly installment payments, resulting in changes in cash inflows and outflows related to EDT. AIC contends that this affects Ameren's cash flow. AIC asserts that since the EDT credit memoranda alter cash flows, they must be considered in the lead-lag study.

AIC asserts that the timing of how credit memoranda affect Ameren's cash flow also matters. EDT, unlike state and federal income taxes, has a built-in mechanism that provides for credits in the year after the tax year if the state collects more tax than authorized by statute. AIC argues that this is outside the control of the Company, in that Ameren cannot simply adjust the amount of tax it pays, as the calculation of the tax payments made each quarter require that the payment be based on the number of kilowatt-hours sold in the prior year. Rather, AIC explains, Ameren has to wait for over a year after the end of the tax year to apply the tax credit to EDT tax return payments. Thus, operation of the tax, by law, requires the utility to pre-pay the tax, and thus provide the cash to pay the tax in Year 0 without the benefit of the associated lower tax payment until Year 2. *Id*. at 62. Accordingly, AIC concludes, the lead/lag study needs to consider this cash flow impact in a manner similar to real estate taxes(although real estate taxes, which are paid to each respective county in arrears on varying due dates, have the opposite effect on leads/lags that the pre-payment of EDT has).

AIC notes that Ameren's CWC calculation reflects the impact of the credit memorandum received in December 2019. This December 2019 credit memorandum affects CWC for the 2019 reconciliation year. The December 2019 credit memorandum is reflected in the FERC Form 1 EDT operating expenses and was used to reduce Ameren's EDT expense reported in FERC Form 1 for 2019. Ameren Ex. 16.0 at 6. Accordingly, AIC argues that its customers are benefitting from lower EDT expense in the calculation of 2019 reconciliation revenue requirement and in the filing year revenue requirement. AIC notes that the use of the December 2019 credit memorandum has a direct impact on the Company's cash receipts for 2019 that result from the reconciliation with interest calculation. *Id*. AIC argues that the December 2019 credit memorandum is thus the proper and accurate credit memorandum to use for the lead-lag study because the December 2019 credit memorandum impacted the expense in 2019.

AIC states that Staff agrees that Ameren's CWC calculation should reflect the impact of EDT credit memoranda. Staff Ex. 2.0 at 5; Staff Ex. 6.0 at 5-6. The question is which year's credit memorandum to include. Staff witness Ebrey used the 2018 credit memorandum and "the date that the credit memorandum was issued to the Company, December 6, 2018, for the service period beginning and ending dates rather than the tax year dates that the credit memorandum was based upon." Ameren Ex. 16.0 at 3.

AIC argues that while Staff correctly recognizes the need to include the impact of EDT credit memoranda in the CWC analysis, Staff's proposal to use the December 2018 credit memorandum rather than the December 2019 credit memorandum should be rejected. As AIC explained, the use of the December 2019 credit memorandum has a direct impact on the Company's cash receipts for 2019 that result from the reconciliation with interest calculation and aligns more closely with the impact on Ameren's cash flow than Staff's proposal to use the prior year December 2018 credit memorandum. *Id*.

AIC further argues that Staff used the date that the credit memorandum was issued to the Company, December 6, 2018, for the service period beginning and ending dates, rather than the tax year dates that the credit memorandum was based on (calendar year 2017). The correct service period is the EDT tax year, which in the case of Staff's proposal is the tax year 2017. The credit memorandum is dependent on the tax year (period) and may change from tax period to tax period. Ameren Ex. 16.0 at 5. AIC explains the statute creates a cap in the total amount of tax for any "taxable period." 35 ILCS 620/2a.1. The credit memorandum returns a proportional amount of excess above the cap to each tax paying entity. 35 ILCS 620/2a.1(c). So, AIC reasons, it follows that the amount of the credit memorandum changes for each taxable period as the proportion of the total EDT paid by a tax paying entity changes for that taxable period. The credit memorandum is part of the ultimate determination of the tax bill, as it adjusts the tax liability to meet the statutory cap. The credit memorandum itself makes this clear, (*see* Ameren Exhibit 16.1), as it refers to a specific "reporting period" of December 31, 2018 and notes that the credit memorandum is for the entity's claim for a credit for that "specific reporting period." Ameren Ex. 16.0 at 5.

AIC argues that Staff's proposal is inconsistent with other taxes within the lead-lag study that establish service periods based on tax years. For example, the Company receives real estate tax bills from every county in Illinois with Ameren taxable assets each year. The lead-lag study is calculated with a service period based on the tax year, not the date the tax bill is received. Ameren Ex. 12.0 at 6. To be consistent with the service period determination applied to real estate taxes, and to be consistent with the EDT tax return measurement period, the Company recalculated Staff's EDT expense lead by applying the correct tax year for the service period associated with Staff's credit memorandum. The corrected calculation changes Staff's expense lead days from 23.70 days to (24.62) days, as shown in Ameren Ex. 12.6. If the Commission adopts Staff's December 2018 credit memorandum rather than the December 2019 credit memorandum, AIC argues the

Commission should use Ameren's corrected calculation that reflects the appropriate service period.

AIC observes that the AG argues that in Docket No. 15-0305, the Commission rejected Ameren's proposal to include the credit memoranda in the cash working capital analysis. The Commission based its conclusions on three findings, none of which, AIC contends, remain valid.

First, AIC notes that the Commission in Docket No. 15-0305 concluded that because the credit memorandum was not solely determined by Ameren alone, there was uncertainty of the sales amount in the future and so in the continuation of credit memoranda at the same magnitude and frequency. *Ameren Ill. Co.*, Docket No. 15-0305, Order at 18-19 (Dec. 9, 2015). This is no longer the case. Since Docket No. 15-0305, the Company has continued to receive additional credit memoranda in December of each year for 2015-2019, with the annual refunds within a fairly narrow range. Ameren Ex. 16.0 at 6. AIC argues that the evidence in this docket clearly addresses the Commission's concern from 2015. Not only does the evidence display a historical record of consistent credit memoranda at similar magnitudes and frequency, but the evidence should give the Commission confidence that the credit memorandum magnitude and consistency will continue.

Second, AIC explains that in Docket No. 15-0305, the Commission was concerned with a large change in the lead-lag numbers lasting for several years. AIC believes that the uncertainty that the Commission had in 2015 was due to the lack of historical data showing that future credit memoranda would also be of similar magnitude and frequency as the credit memorandum in Docket No. 15-0305. As discussed above, AIC provided evidence of the historical consistency of credit memoranda magnitude and frequency.

Finally, AIC notes that in Docket No. 15-0305, the Commission questioned "why the EDT liability, but not other taxes such as state and federal income taxes and taxes other than income, must be refined for true ups and credits for the CWC calculation." *Ameren Ill. Co.*, Docket 15-0305, Order at 19 (Dec. 9, 2015). But, AIC explains, the EDT credit memoranda are not analogous to state and federal income tax refunds because the statutory scheme for EDT creates the need for the credit memoranda that affect cash flows. Income taxes are not subject to a statutory cap, as the EDT is. AIC argues that EDT credit memoranda are more analogous to real estate tax bills.

AIC also notes that Staff does not agree with the AG's position since "the Company's testimony in this proceeding indicates that the credit memorandum has been and is likely to continue to be reflected in the EDT expense incurred by the utility." Thus, AIC argues, the AG's position should be rejected.

b. AG's Position

The AG opposes the proposal to include the EDT credit memorandum in the CWC calculation. Ameren's tax credit is not based solely on its kilowatt distribution and tax liability; yet, Ameren proposes to calculate its CWC as if it is pre-paying the EDT, to the detriment of the ratepayers.

The EDT is paid by all electric distribution companies based on the kilowatt hours distributed during a taxable period (calendar year), increasing incrementally. 35 ILCS

620/2a.1 (a). If the total amount of tax paid on all kilowatt hours distributed in the state by the combined taxpayers for any calendar year exceeds an amount calculated according to the statute, “the Department shall issue credit memorandum in the aggregate amount for the excess to each of the taxpayers who paid any amount of tax under subsection (a). … Any credit memorandum issued to a taxpayer under this subsection may be used as a credit by the taxpayer against its liability in future taxable periods for tax under subsection (a).” 35 ILCS 620/2a.1(c).

The AG asserts that including the credit memorandum in the CWC calculation derives a negative 53.80 day estimated weighted expense lead time. The resulting negative expense lead-day indicates that the EDT is paid in advance of the date the tax was incurred; thus, increasing the CWC requirement. Ameren Ex. 6.0 at 16. Excluding the credit memorandum from the CWC lead-lag study derives a positive 30.13-day lead reducing the CWC requirement and the net revenue requirement.

The Commission has already considered Ameren’s proposal to include the credit memorandum in the lead-lag study and rejected it in *Ameren Ill. Co*., Rate MAP-P Modernization Action Plan – Pricing Annual Update Filing, Docket 15-0305, Order (Dec. 9, 2015). The Commission said:

> the credit memoranda which AIC wishes to include in the calculation of the expense payment lead are not determined solely by AIC’s actions, but are also dependent on the sales of other electric utilities in the State. The Commission notes that the effect of their inclusion by AIC in this docket’s calculation caused a large change in the expense payment lead, which would be in effect for several years to come, which the Commission does not find to be reasonable or supported by the evidence.

Docket 15-0305, Order (Dec. 9, 2015) at 18-19.

A change of this magnitude requires a clear explanation and justification: the record contains neither sufficient explanation nor justification for the Commission to change its policy of including the credit memorandum in the CWC calculation.

The AG recommends removing the EDT credit memorandum for the 2018 tax year of $6,193,029 from the lead-lag study to derive a positive 30.13-day lead rather than a negative 53.8-day lead for EDT. AG Ex. 2.0 at 14. The impact of this change in the lead days for the EDT credit memorandum reduces the CWC requirement in the Reconciliation Year from $20.756 million to $11.024 million and reduces the CWC in the Filing Year from $ 20.401 million to $10.669 million. *Id*. This change results in approximately a $1.679 million reduction in the net revenue requirement. *Id*.

c. Staff’s Position

Staff argues the Commission should approve Staff’s proposed CWC adjustment to reflect a change for the weighted lead time to EDT from a negative 53.80 days to a positive 23.70 days. Staff’s adjustment used the EDT credit memorandum that was reflected in the Company’s March 15, 2019, EDT tax payment and the date that the credit memorandum was issued to the Company, December 6, 2018, for the period beginning and ending dates rather than the tax year dates that the credit memorandum was based upon (calendar year 2017). Staff Ex. 2.0 at 5-6. The two differences between Staff's position and the Company's position for the lead time for EDT expense are both based on the treatment of the credit memorandum that impacted the lead lag study.

The first difference is Staff used the credit memorandum received in 2018 that was applied to the first quarter payment in 2019, while the Company used the credit memorandum received in 2019 that was not applied to payments made during 2019. Calendar year 2019 is the year that was used for purposes of the lead lag study. Since the study is a measure of cash flows during 2019, it is appropriate to use the items that impacted payments made during the period that was used as the basis of the study. In response to Staff data request ("DR") TEE 1.09 (Attachment A), which asked how the credit memorandum received in December 2019 would have impacted the Company's cash flow in 2019, the Company described the accounting treatment of the credit memorandum in 2019 and explained how that credit memorandum was reflected in the reconciliation schedules in this case. Nothing in the Company's response referenced any actual cash flow occurring during 2019.

The second difference is Staff's proposal for the time frame to be used for both the beginning and the ending period for the credit memorandum was the date on which the credit was actually known by the Company: December 6, 2018. Ameren Ex. 1.0 at 6. The Company, on the other hand, used the tax period that was a basis for the calculation of the credit memorandum. Ameren Ex. 12.0 at 5.

The calculation of an EDT credit memorandum is determined by statute:

> (c) If, for any taxable period, the total amount received by the Department from the tax imposed by subsection (a) exceeds $145,279,553 plus, for taxable periods subsequent to 1998, an amount equal to the lesser of (i) 5% or (ii) the percentage increase in the Consumer Price Index during the immediately preceding taxable period, of the total amount received by the Department from the tax imposed by subsection (a) for the immediately preceding taxable period, determined after allowance of the credit provided for in this subsection, the Department shall issue credit memoranda in the aggregate amount of the excess to each of the taxpayers who paid any amount of tax under subsection (a) for that taxable period in the proportion which the amount paid by the taxpayer bears to the total amount paid by all such taxpayers. This calculation shall be made as of December 1 of the year following the immediately preceding taxable period and shall consist of only those returns with payment then on file with the Department.

35 ILCS 620/2a.1 (c). The above language shows that the amount of the credit memorandum is not dependent upon the tax period as the Company suggests. Rather, the amount of the credit memorandum is based on payments received by the Department of

Revenue during a set time period as compared to a value set in the statute. Thus, it is not appropriate to use any specific tax period for the basis of lead days associated with the credit memorandum. Staff Ex. 6.0 at 4.

The AG, in contrast to both Ameren and Staff, cites to the Commission's decision in Docket No. 15-0305 (AG Ex. 1.0 at 12) as its basis for disallowing the consideration of the EDT credit memorandum in the lead lag study. Staff disagrees with that position since the Company's testimony in this proceeding provides sufficient evidence that the EDT credit memorandum has and is likely to continue to impact the Company's cash flow. Ameren Ex. 1.0 at 59-60; Staff Ex. 6.0.

d. Commission Analysis and Conclusion

AIC explains that credit memoranda related to the EDT affect Ameren's cash flows and proposes to include the credit memoranda in the CWC analysis. Staff agrees that the credit memoranda should be included in the cash working capital analysis (although Staff disagrees with AIC regarding which credit memorandum to use), but the AG disagrees, arguing the credit memorandum should not be included in the analysis.

With respect to the AG's argument that in Docket No. 15-0305, the Commission rejected Ameren's proposal to include the credit memoranda in the CWC analysis, the Commission finds that circumstances have changed since Docket No. 15-0305. Since Docket No. 15-0305, the Company has continued to receive additional credit memoranda in December of each year for 2015-2019, with the annual refunds within a fairly narrow range. The evidence in this docket adequately addresses the Commission's concern from 2015. Not only does the evidence display a historical record of consistent credit memoranda at similar magnitudes and frequency, but the evidence confirms that it is reasonable to expect the credit memorandum magnitude and consistency will continue. In this docket, Staff agrees that the evidence supports the conclusion that the credit memoranda have been and are likely to continue to be reflected in the EDT expense incurred by the utility, and should therefore be considered in the calculation of lead time, whereas Staff in Docket No. 15-0305 took the opposite view of the record in that case. The Commission agrees with AIC and Staff that, based on this record, the evidence supports the conclusion that the credit memoranda have been affecting and are reasonably expected to continue to affect Ameren's cash flows. Accordingly, the Commission finds on this more robust record and with the agreement of Staff that the impact of receipt of those credit memoranda should be included in its CWC determination.

The Commission therefore finds that credit memoranda related to the EDT affect Ameren's cash flows and Ameren should include the impact of receipt of those credit memoranda in its CWC determination. By including the credit memoranda, the EDT lead/lag analysis more accurately reflects the Company's actual cash flow experience and provides a more accurate analysis of cash receipts and cash outflows.

Staff and Ameren disagree, however, on which year's credit memorandum to use (2018 or 2019), and the appropriate service period. AIC asserts that the 2019 credit memorandum is the proper memorandum to use for CWC analysis. Staff explained that Staff used the credit memorandum received in 2018 that was applied to the first quarter payment in 2019, while the Company used the credit memorandum received in 2019 that was not applied to payments in 2019. Staff argues that it is more appropriate to use the 2018 memorandum, as that is the memorandum which affected the cash flows of 2019. The Commission agrees with Staff that since calendar year 2019 is the year that was used for purposes of the lead lag study, and the purpose of including the credit memorandum is to get a more accurate lead/lag analysis, it is appropriate to use the items that impacted payments during the period that was used as the basis of the study.

The other difference between Staff and Ameren's positions on this point is Staff's proposal for the timeframe to be used for both the beginning and the ending period for the credit memorandum was the date on which the credit was actually known by the Company: December 6, 2018. Staff correctly notes that the calculation of an EDT credit memorandum is determined by statute, which makes clear that rather than depending upon the tax period as the Company suggests, the amount of the credit memorandum is based on payments received by the Department of Revenue during a set time period as compared to a value set in the statute. The Commission agrees with Staff that as such, it is not appropriate to use any specific tax period for the basis of lead days associated with the credit memorandum. Accordingly, the Commission finds that Staff's use of the 2018 memorandum and the date of December 6, 2018 is appropriate and should be approved.

2. Customer Advances – Distributed Energy Resources ("DER")

a. AIC'S Position

AIC explains that customer advances for DER projects are funds provided by customers for future plant additions related to DER projects. Ameren received approximately $16 million in DER customer advances in 2019, for projects to be completed and in service in 2020. Ameren Ex. 12.0 at 11. For DER projects, Ameren is not deducting 2019 customer advances from reconciliation year rate base as those projects were not in service in 2019. These DER projects are expected to be in service in 2020. Ameren Ex. 1.0 at 25. Therefore, AIC explains, Ameren is offsetting 2020 projected plant additions by the 2019 DER advances balance.

AIC further explains that in this proceeding, the Company is resetting customer rates starting with the January 2021 billing period. The Company's proposal reflects the projected plant additions related to DER projects and the related DER customer advance credits one time and one time only in the calculation of Rate Base for the Filing Year. Ameren Ex. 12.0 at 12. The DER customer advances are matched to their related project's in-service date. And customers are receiving the benefit of the DER customer advances in rates.

AIC notes that Staff, however, proposes to reflect the DER customer advances twice. For the reconciliation year, Staff proposes an adjustment to reflect the amount of Customer Advances for DER Projects that had not yet been started as a reduction to 2019 Rate Base. Staff argues that $15.811 million remains available to the Company until the funds are spent during 2020 as projects are completed. Staff Ex. 2.0 at 6. Staff contends the Company had use of the funds as they were collected and held during 2019, even though all of the projects related to the advances were not completed and included in rate base. *Id*.

However, AIC contends Staff's rationale is flawed. AIC explains that under Staff's proposal, customers would receive the benefit of the DER customer advances twice in rates

– once with the Reconciliation Year and then again in the Filing Year calculation of Rate Base. Staff Ex. 2.0 at 6. This has the result of overstating the time that the advances were "available" for AIC's use. AIC explains that the Company only has use of the advance funds for part of 2019, from the time they were received (they were not all provided on January 1). And the Company only had use of the funds until the project goes into service in 2020, so again, only part of the year. Ameren Ex. 1.0 at 25. To correctly calculate the Staff adjustment based on Staff's rationale regarding when the advances were "available", AIC contends one would presumably need to pro-rate the advances for individual projects based on when the advances were received in 2019 and projected in service in 2020. AIC notes that Staff has not done this.

Instead, AIC argues, Staff's proposal assumes AIC has the advances available for use for all of 2019 and all of 2020 (Staff Ex. 2.01) – in other words, longer than AIC actually does. AIC argues its proposal better addresses Staff's concern regarding when the funds are available, because it reduces the balance of projected plant as if the advances had been available the entire year 2020 (Ameren Ex. 1.2 at 7-8), even though they were not, and so becomes a reasonable proxy for the actual time that AIC had the funds.

AIC contends that customers are not entitled to a doubling of the benefit of DER advances because the underlying assets associated with the DER customer advances are not included in Reconciliation Year Rate Base. Under the Company's proposal, customers are receiving the appropriate benefit in rates for the offset to utility plant for customer advances in the calculation of Filing Year rate base. *Id*. Thus, AIC argues, the Commission should reject Staff's proposal and accept the Company's proposal to offset the Filing Year projected plant additions by the amount of DER customer advances.

b. Staff's Position

The Commission should approve Staff's proposed adjustments to both the reconciliation year and the filing year for the treatment of customer advances for DER. Staff proposed an adjustment to the 2019 Reconciliation Year revenue requirement to reflect the Customer Advances for DER as a reduction to rate base since the funds are being held by the Company until spent for those projects. Company witness Stafford argues that the customer advances should not reduce rate base since the specific projects are not to be completed until 2020. Mr. Stafford further opines that Staff's adjustment be rejected because, under his interpretation, "customers would receive the benefit of the DER customer advances twice in rates – once in the Reconciliation Year and again in the Filing Year calculation of Rate Base." Ameren Ex. 12.0 at 12.

Staff argues that customers should receive the benefit of the advances both in the reconciliation year through the reconciliation adjustment, since the advances are funds held by the Company, and in the filing year, as an offset to the projected plant additions. Unlike the Company's proposal which reflects the DER customer advances in the Filing Year revenue requirement only, Staff's adjustment reflects the customer advances that were being held by the Company at the end of 2019 and thus were available for use by the Company until spent on the associated projects. Staff Ex. 6.0 at 7.

Staff also proposed an adjustment to correctly reflect the customer advances as a separate line item reduction to rate base rather than as a reduction to plant in service. The

Company argues that since the formula does not provide for any changes to the filing year revenue requirement other than projected plant in service and the related depreciation and accumulated deferred income taxes, the only way to reflect the customer advances is as a direct offset to the plant in service line item. Staff argues the Company is incorrect that the *only* Filing Year rate base adjustments are limited to *only* projected plant additions and related adjustments for the depreciation reserve and deferred income taxes. The Commission recognized in Docket No. 13-0301 that the changes to the revenue requirement that are associated with the projected plant additions should be likewise reflected in the filing year revenue requirement. In that case, the Commission approved different CWC adjustments acknowledging the differences to depreciation and amortization expenses between the filing year and the reconciliation year due to the projected plant additions in the filing year. *Ameren Ill. Co.*, Docket No. 13-0301, Order Appendices A and B (Dec. 9, 2013).

For these reasons, Staff recommends that the Commission approve Staff's proposed adjustments to both the reconciliation year and the filing year for the treatment of customer advances for DER.

c. Commission Analysis and Conclusion

Staff has proposed an adjustment to the 2019 Reconciliation Year revenue requirement to reflect the Customer Advances for DER as a reduction to rate base since the funds are being held by the Company until spent for those projects. Ameren argues that the customer advances should not reduce rate base since the specific projects are not to be completed until 2020. The AG and CUB have not taken a position on this issue.

The Commission agrees with Staff that, consistent with the approach in Docket No. 13-0301, customers should receive the benefit of the advances both in the reconciliation year through the reconciliation adjustment, since the advances are funds held by the Company, and in the filing year, as an offset to the projected plant additions. This adjustment reflects the customer advances that were still held by the Company at the end of 2019 and thus were available for use by the Company until spent on the associated projects. Staff Ex. 6.0 at 7. Furthermore, as noted by Staff, in each of Ameren's Formula Rate Update cases since Docket No. 13-0301, the Commission has approved separate CWC adjustments to rate base for the Filing Year and the Reconciliation Year since the changes associated with projected plant additions in the filing year impact the CWC calculation for the filing year. As such, the Commission finds Staff's adjustment to be appropriate.

C. Original Cost Determination

Staff witness Ebrey recommended the Commission approve $7,437,037,000 as the original cost of plant in service as of December 31, 2019. Staff and AIC agree that the Commission's Order should state the following with respect to the Original Cost Determination:

> (x) the Commission, based on Ameren's proposed original cost of plant in service as December 31, 2019, before adjustments, of $7,785,149,000 and reflecting the Commission's determination adjusting

that figure, approves $7,437,037,000 as the composite original cost of jurisdictional distribution services plant in service as of December 31, 2019.

The Commission finds that Staff and AIC are in agreement on this issue and approves the agreed-upon original cost determination in this Order.

D. Incremental EIMA Plant Investments

AIC provided the actual and projected incremental plant investment that is included in the revenue requirement in compliance with Section 16-108.5(b)(2) of the Act, as ordered by the Commission in Docket No. 12-0292, to which Staff agrees. The Commission will therefore adopt the following agreed conclusion for use in this proceeding:

The Commission is setting a revenue requirement in this proceeding for the recovery of $65.2 million in actual 2019 plant additions and $43.2 million of projected 2020 plant additions in compliance with Section 16-108.5(b) of the Act. The details of these actual and projected plant additions by categories as required by Section 16-108.5(b) are as follows:

	Category	Actual 2012-2018 (In Millions)	Actual 2019 (In Millions)	Projected 2020 (In Millions)	Cumulative 2019 (In Millions)
A)(i)	Distribution Infrastructure Improvements	$192.6	$22.7	$22.2	$215.3
A)(ii)	Training Facility Construction or Upgrade Projects	$7.4	$0.0	$0.0	$7.4
A)(iii)	Wood Pole Inspection, Treatment, and Replacement	$0.0	$0.0	$0.0	$0.0
	Total Electric System Upgrades, Modernization Projects, and Training Facilities	$200.0	$22.7	$22.2	$222.7
B)(i)	Additional Smart Meters	$260.2	$34.8	$10.0	$295.0
B)(ii)	Distribution Automation	$97.0	$7.4	$10.4	$104.4
B)(iii)	Associated Cyber Secure Data Communications Network	$10.2	$0.3	$0.6	$10.5
B)(iv)	Substation Micro- processor Relay Upgrades	$6.7	$0	$0.0	$6.7

	Total Upgrade and Modernization of Transmission and Distribution Infrastructure and Smart Grid Electric System Upgrades	$374.1	$42.5	$21.0	$416.6
	Total Plant Additions in Compliance with Section 16-108.5(b)(2) of the Act	$574.1	$65.2	$43.2	$639.3

E. Recommended Rate Base

1. Filing Year

The Commission finds, based on the decisions presented earlier on the various issues, that a reasonable rate base for the filing year is shown on Appendix A, Schedule 2.

2. Reconciliation Year

The Commission finds, based on the decisions presented earlier on the various issues, that a reasonable rate base for the reconciliation year is shown on Appendix B, Schedule 2.

V. OPERATING REVENUES AND EXPENSES

A. Uncontested or Resolved Issues

1. Asset Separate Project ("ASP") Expense Corrections

As noted above, Staff proposed certain adjustments to plant balances to reflect corrections to the ASP. The adjustments to plant balances also has corresponding adjustments for depreciation and amortization expense that increased depreciation expense in the FY by $370,000 and in the RY by $325,000. Staff Sch. 1.02FY and RY.

The Commission finds that the corresponding expense adjustments related to the agreed-upon proposed corrections to ASP allocations for common general and intangible plant assets as of the end of 2019 are uncontested and therefore adopts the proposed expense adjustments for use in this proceeding.

2. Executive Perquisites

Based on the Company's rebuttal testimony, Staff and AIC agree that no adjustments are needed for Executive Perquisites in this proceeding, given that AIC's Executive Perquisites in 2019 were an ordinary component of executive compensation in the marketplace. However, the executive perquisites for the five highest compensated officers of Ameren Corporation is contested and discussed below. The Commission finds that the executive perquisite expenses, other than for the five highest compensated officers of Ameren Corporation, are reasonable and uncontested, and therefore approves its use in this proceeding.

3. Outside Professional Services Expense

Staff proposed an adjustment to reduce outside professional services expenses that relate to alcohol purchases and duplicate charges. On rebuttal, AIC agreed with Staff's adjustment to remove alcohol purchases of $4,714 on Ameren Ex. 12.3 and has reflected the agreed-upon amount in the proposed net revenue requirement. Based on the Company's rebuttal testimony, Staff and AIC agree that no adjustments are needed for duplicate charges. In addition, AIC reflected an adjustment, to increase jurisdictional outside services expense by $52,105 on Ameren Ex. 12.5, in response to a Staff data request, for the jurisdictional portion of certain legal expenses that were incorrectly allocated to gas operations in 2019.

The Commission finds that the proposed adjustments to outside professional services expenses are reasonable and uncontested, and therefore approves their use in this proceeding.

4. Deferred Tax Expense

Staff and the AG proposed a correction to the Company's amounts for Deferred Tax Expense. In response to data request AG 1.10, AIC provided the adjustment to decrease deferred tax expense by $24,488 as shown on Ameren Ex. 12.3 to reflect the correction for its 2019 Deferred Tax Expense that was determined during its reconciliation of excess deferred income taxes ("EDIT") and the Amount of EDIT reflected on Company Schedule C-5.2.

The Commission finds that the correction is reasonable and uncontested and therefore approves its use in this proceeding.

5. Dues Expense

Staff proposed an adjustment to increase dues expense for an amount that was inadvertently excluded from 2019 costs. On rebuttal, AIC agreed with Staff's adjustment and increased its dues expense by $7,418 as shown on Ameren Ex. 12.3.

The Commission finds that the proposed adjustment to dues expense is reasonable and uncontested and therefore approves its use in this proceeding.

6. Customer Accounts Expense (Reclassification)

In its rebuttal testimony, supported by Ameren Ex. 12.4, AIC reflected an adjustment to customer accounts expense for a customer-related expense that was incorrectly recorded to an Administrative & General ("A&G") account. The Company had committed to make the adjustment in response to a Staff data request. No party objected to AIC's proposed adjustment to customer accounts expense.

The Commission finds that the proposed adjustment to customer accounts expense is reasonable and uncontested, and therefore approves its use in this proceeding.

7. Advertising Expense (Voucher No. 3659445, 3677890 and 3821803)

Staff proposed an adjustment to AIC's advertising expenses for several different vouchers related to 2019 expenses. AIC indicated that advertising expenses that Staff identified as unrelated to AIC are advertising with recoverable messaging that AIC has disclosed and recovered in prior formula rate cases. However, in order to limit the number of contested issues, AIC has agreed to a partial adjustment of its advertising expenses with respect to voucher number 3659445, voucher number 3677890, and voucher number

3821803. The expense associated with voucher No. 3637279 remains a contested issue.

The Commission finds that the proposed adjustment to reduce AIC's advertising expense by $25,767 with respect to voucher numbers 3659445, 3677890, and 3821803, as reflected on Ameren Ex. 12.4, is reasonable and uncontested, and therefore approves its use in this proceeding.

8. Rate Case Expense

Section 9-229 of the Act requires the Commission to assess the justness and reasonableness of AIC's rate case expenses. 220 ILCS 5/9-229. Part 288 of the Commission's Rules are intended to guide that assessment. 83 Ill. Adm. Code 288. AIC explains that consistent with that authority, it supplied for the Commission's review extensive documentation supporting the justness and reasonableness of its 2018 formula rate case expenses. Staff and AIC agree that the Commission's Order should state the following with respect to those expenses:

The Commission has considered the costs expended by AIC during 2019 to compensate attorneys and technical experts to prepare and litigate rate case proceedings and assesses that the amount included as rate case expense in the revenue requirements of $819,323 is just and reasonable. This amount includes the following costs: (1) $0 associated with Docket No. 18-0807; (2) $780,905 associated with Docket No 19-0436; and (3) $38,418 associated with Docket No. 20-0381.

No other party opposes AIC's proposed level of rate case expense.

The Commission finds that the total rate case expense that AIC incurred to litigate its formula rate cases in 2019 is supported by the evidence and is just and reasonable. The Commission, therefore, adopts Staff and AIC's suggested language in this Order.

B. Contested Issues

1. Amortization of Excess Deferred Income Tax ("EDIT")

a. AIC'S Position

AIC recounts that prior to 2017, when Ameren claimed certain tax deductions in excess of its corresponding book expenses – most particularly accelerated (including bonus) tax depreciation – it would defer its income tax liability by an amount determined using the corporate tax rate expected to be in effect when the deferred tax liability became due in the future. Ameren Ex. 12.0 at 8. Ameren retained the benefit of the income tax deferral and recorded it as ADIT, which was reflected in ratemaking as an offset to rate base. AIC notes that it was expected that the amount of the deferred tax liability would eventually have to be paid back to the government in the form of higher income taxes when, later on in the life of the depreciable assets, book depreciation would exceed the available tax depreciation deductions. *Id*.

AIC explains that the enactment of the Tax Cut and Jobs Act ("TCJA") in 2017 reduced the income tax rate and altered the amount of Ameren's anticipated repayment liability – consequently, when the deferred tax liability becomes due it will be taxed at 21%, not the higher rates previously in effect (35% from 1994-2017, 34% from 1987-1993). *Id*. at 8-9. As a result, a portion of Ameren's ADIT reserve that was recorded on the presumption that it would be taxed at the higher rate of 34% or 35% was rendered unnecessary and is considered "excess" deferred income taxes, or EDIT. AIC contends that this EDIT can be returned to customers over the appropriate amortization period.

AIC notes that, as approved by the Commission in Docket No. 19-0436 and pursuant to the TCJA, Ameren has determined the EDIT amortization period using the average rate assumption method ("ARAM") for property-related excess deferred taxes where ARAM is required by law or where it is feasible to do so. Ameren continues to use a 35-year amortization as a proxy for the remaining useful life of the assets for those items where Ameren's tax systems cannot perform the necessary calculations for ARAM. Other excess deferred income tax balances are amortized over 7 years. Ameren Ex. 1.0 at 47.

AIC argues that the question of what amortization period should be applied to unprotected property-related EDIT has already been litigated extensively before the Commission; AIC observes that just nine months ago the Commission considered and approved the application of a consistent amortization period for all plant-related deferred taxes, both protected and unprotected. In that proceeding, the Commission concluded that use of the ARAM to arrive at a 35-year amortization period for unprotected plant-related EDIT is reasonable, equitable, and balances the interest of all customers. *Ameren Ill. Co.*, Docket No. 19-0436, Order (Dec. 16, 2019) at 34-35.

AIC notes that the Commission's decision in Docket No. 19-0436 was not isolated – the Commission also considered and rejected nearly identical arguments from the AG in Commonwealth Edison Company's ("ComEd") 2018 formula rate case, where the Commission ultimately approved ComEd's use of the ARAM methodology for "unprotected" property-related excess deferred taxes. *See Commonwealth Edison Co.,* Docket No. 18-0808, Order at 57-58 (Dec. 4, 2018). AIC further notes, the Commission again rejected the AG's position in ComEd's 2019 rate case, concluding that "[t]he AG and IIEC/CUB have not provided any new facts or governing law that would support a drastic change from the Commission's prior decision. Moreover, the Commission notes and agrees with ComEd's and Staff's concerns that re-litigating this same issue over the next approximately 38 years (the remainder of the previously approved amortization period) would be a waste of resources." *See Commonwealth Edison Co.,* Docket No. 19-0387, Order at 37 (Dec. 4, 2019).

AIC argues that there has been no significant change in circumstances since the Commission's findings in Docket No. 19-0436, or the ComEd cases, that would warrant a different outcome here. AIC points out, however, the AG raises many of the same arguments here that were rejected in Docket No. 19-0436, arguing that the Commission should refund Ameren's unprotected property-related EDIT over an accelerated amortization period of five years. AG Ex. 1.0 at 4. In fact, AIC observes, the AG acknowledges that the Commission rejected the application of a shorter refund period in Docket No. 19-0436, but notes that the matter is under appeal in front of the Appellate Court of Illinois, Fourth Judicial District, docketed as Court Case No. 4-20-0105. AIC asserts that the AG's argument in this proceeding, in the face of prior rejections by the Commission and no change in circumstances that would warrant a departure from previous decisions, appears to act as a placeholder given that the issue is on appeal. AIC notes Staff's testimony that the AG's recommendation is based simply "upon the fact that the decision in

Docket No. 19-0436 is on appeal and *might* be overturned." Staff Ex. 6.0 at 10 (emphasis in original). AIC argues that fact alone does not justify departing from established Commission precedent.

AIC contends that Ameren's approach is fair and equitable to all customers; it ensures that both current and future customers pay a smoother, normalized cost for assets over time, rather than creating a rapid jump in revenue requirement in year 6 once the AG's proposed accelerated amortization period ends. Customers, both current and future, will continue to pay for the plant at issue through depreciation expense regardless of whether EDIT payments are depleted. Consequently, AIC points out that the Company's proposal aligns the EDIT amortization period with the life of the assets, avoiding an artificial subsidy to current customers and reflecting the fact that customers will continue to support the underlying asset over its life until it is fully depreciated. AIC explains that this approach ensures an equitable application of the benefit of the amortization period rather than conferring an immediate benefit at the expense of future ratepayers. Ameren Ex. 16.0 at 8.

AIC also points out that, as noted above, unamortized EDIT represents cost-free capital and is treated as a reduction to rate base from which customers derive an indirect, but important, benefit. *Id*. at 9. AIC argues that the AG's proposed accelerated amortization period would quickly eliminate that benefit and cause a more rapid increase in rate base. In contrast, Ameren's Commission-approved amortization period avoids sudden and drastic impacts to rate base and revenue requirement; it is reasonable and ensures that current and future customers who pay for and support an asset over its useful life continue to receive the offsetting benefit of an EDIT refund.

AIC argues that the AG's proposed accelerated amortization period overlooks Ameren's future customers in favor of an immediate credit, creating inequities among ratepayers. AIC observes that this unequal approach has already been rejected in Docket No. 19-0436, and the AG offers no compelling reason to deviate from that decision. AIC notes Staff's recognition that "none of the facts surrounding the Commission decision in the earlier case have changed," and that "no new evidence has been provided for the Commission to change the decision it reached just 8 months ago." Staff Ex. 6.0 at 9-10. AIC notes that consistent with her position in Docket No. 19-0436, Staff witness Ebrey therefore recommends that the Commission reach the same conclusion adopted in Docket No. 19-0436 and allow Ameren to amortize EDIT over 35 years based on the remaining useful life for the unprotected property-related EDIT. *Id*. at 10.

AIC maintains that the AG's proposal should be rejected. The Commission should continue to approve Ameren's use of the ARAM methodology for all property-related excess deferred taxes, both protected and unprotected, or a 35-year proxy where ARAM is not feasible.

AIC notes that the AG and CUB argue that the Commission should apply an arbitrary, shorter amortization period for unprotected property-related excess deferred taxes. AIC states that neither the AG nor CUB offer new evidence (and CUB actually offered no evidence at all) in this proceeding that would justify an abrupt departure from the Commission's decision in Docket No. 19-0436.

AIC argues that the AG's proposed five-year accelerated amortization period and CUB's proposed seven-year accelerated amortization period (even if there was evidence here that supported 7 years) would artificially subsidize current customers, leading to a rapid jump in AIC's revenue requirement after the accelerated amortization period ends. Further, CUB and the AG's proposal would deprive ratepayers of the benefit of a long-term reduction to rate base, and – contrary to CUB's position – would exacerbate intergenerational inequities by denying benefits to customers that pay for the underlying asset over its useful life.

CUB's position suffers from the same deficiencies, according to AIC; in fact, CUB offered no evidence of its own on this topic, and CUB's arguments rely almost entirely on the record in Docket No. 19-0436 and make no effort to distinguish that proceeding from the instant docket. For this reason, alone, AIC contends, CUB's arguments can be disregarded. *Powell v. Dean Foods Co*., 2012 IL 111714, ¶ 36 (party must assert his own legal interests and rights, not those of third parties).

AIC points out that, for the first time in its Initial Brief, the AG argues that Section 16-108.5(c)(4)(F) of the Act requires Ameren to apply a five-year amortization period to its unprotected property-related excess deferred taxes. According to the AG, the change in tax rate resulting from the 2017 TCJA triggers the provision of Section 16-108.5(c)(4)(F) that requires "amortization over a 5-year period of the full amount of each charge or credit that exceeds $3,700,000 for a participating utility that is a combination utility…in the applicable calendar year" related to a change in law, including those related to taxes. 220 ILCS 5/16-108.5(c)(4)(F). AIC contends this argument is wholly unsupported by the evidence and disregards the impacts of such an interpretation on federal tax law and the amortization of all EDIT, not only the unprotected property-related EDIT that is the subject of the AG's proposal in this proceeding.

According to AIC, Section 16-108.5(c)(4)(F) applies to specific charges or credits that exceed $3,700,000 in a calendar year, but the AG does not point to any evidence that the excess deferred taxes at issue here exceeds that statutory limit. Consequently, the crucial qualifying criteria established by the statute has not been met.

Further, according to AIC, the AG does not offer any insight into what this amount may be, which categories of EDIT are included in the "charge or credit" related to changes in tax law, or why the AG's rationale would not more broadly require deferrals for other changes to current and/or deferred tax expense resulting from the 2018 federal income tax rate decrease from 35% to 21%. If, AIC argues, the AG's reading of Section 16-108.5(c)(4)(F) applies to all EDIT, protected and unprotected, the AG fails to address the conflict between the amortization period the AG alleges is required by the Act and that required by federal tax law, which requires normalization of EDIT for protected property using ARAM.

AIC contends the AG does not explain how or why the language of the statute would apply only to property-related unprotected EDIT (which is the subject of the AG's testimony in this proceeding), but not to non-property related EDIT, which is subject to an uncontested 7-year amortization period. Conversely, AIC contends, if the AG has adopted a narrow reading of Section 16-108.5(c)(4)(F) that only applies to unprotected EDIT, the AG fails to explain how the language of the statute limits the amortization period for "each charge or credit" to only certain subsets of EDIT.

Moreover, AIC argues, if in fact Section 16-108.5(c)(4)(F) applies to EDIT, the appropriate docket to have addressed that would have been Docket No. 19-0436, which reviewed the first year of the tax rate change (2018). The AG does not explain why, since this interpretation of EIMA deferrals was not adopted in Docket No. 19-0436, proposing this reasoning in this proceeding is not an improper attempt to revisit that prior order.

Regarding the AG argument that adoption of an accelerated amortization period will have the "additional advantage" of providing funds to customers impacted by the COVID-19 pandemic, AIC says this claim is unsupported, insofar as it could be applied to any proposal to reduce revenue requirement. The AG does not explain how this particular argument in any way relates to EDIT specifically or the legal requirements for cost recovery of prudency and reasonableness more generally.

AIC contends the AG's claim that accelerated amortization will not affect shareholders is untrue: as Ameren explained in Docket No. 19-0436, accelerated amortization of EDIT over a period shorter than the life of the asset "effectively truncates the period over which the Company anticipated it would have access to the capital and decreases a utility's cash flow" which "AIC argues that this accelerated payback could impact the Company's credit metrics and increase risk of a downgrade." Docket No. 19-0436, Order at 30.

Moreover, AIC argues, addressing the impacts of COVID-19 is beyond the scope of this proceeding, in light of the global settlement, stipulation and Commission Order per which Illinois public utilities "have agreed to various commitments and undertakings with regard to the continuation of utility services, the recovery of associated costs, customer assistance, and other pertinent matters related to the provision of essential utility services during the present public health emergency*." In the Matter of Moratorium on Disconnection of Util. Services during the Public Health Emergency Declared on March 9, 2020 pursuant to Sections 4 and 7 of the Ill. Emergency Management Agency Act*, Docket No. 20-0309, Order at 4 (June 18, 2020).

b. AG's Position

A change in the federal income tax rate changed from 35% to 21% effective for tax years beginning after December 31, 2017 created EDIT that must be returned to ratepayers. Section 16-108.5 (c)(4)(F), 220 ILCS 5/16-108.5(c)(4)(F), is unambiguous, plain in its meaning and controlling: a 5-year amortization period applies. The Commission is bound by the statute and "[We] may not read out of a statute a limitation that the legislature expressed nor may we impose a condition that the legislature did not enact." *Commonwealth Edison Co. v. Ill. Commerce Comm'n,* 398 Ill.App.3d 510, 523 (2nd Dist. 2009).

The 5-year period required by Section 16-108.5 (c)(4)(F) should apply to these EDIT amounts. The Commission failed to adopt the five-year amortization period in *Ameren-Rate MAP-P Modernization Plan – Pricing Annual Update*, Docket No. 19-0436, Order at 35 (Dec. 16, 2019) in which it ordered 35-year amortization to refund the EDIT. This matter is presently under review by the Appellate Court of Illinois, Fourth Judicial District, docketed as Court Case No. 4-20-0105. The Commission is not bound by its previous decision. *Citizens Util. Co. of Ill. v. Ill. Commerce Comm'n,* 153 Ill.App.3d 28, 32 (3rd Dist. 1987).

The AG recommends an adjustment based on a 5-year amortization consistent with AG Ex. 2.1, Sch. 1, which increase the EDIT refund in this proceeding by $6.285 million. The EDIT refund increase results in a reduction in the ADIT balance at December 31, 2019 of $6.286 million. *See* AG Ex. 2.0 at 6.

c. CUB's Position

CUB maintains its position on the amortization period for EDIT set forth in AIC's 2019 formula rate update proceeding. CUB notes that the 2019 Order recognized AIC must return EDIT balances to its customers and the Commission has discretion to determine the amortization period over which to refund a defined portion of EDIT. *Ameren Ill. Co.*, Docket No. 19-0436, Final Order at 34 (Dec. 16, 2019). The Commission approved a 35-year amortization period for repayment of the entire amount of these ratepayer funds. *Id.* at 35–36. However, CUB stresses the Commission has discretion to accelerate the return of the portion of EDIT that is unprotected property-related. Like the AG, CUB has argued repeatedly that the Commission should exercise this discretion to accelerate the return to customers of unprotected property-related EDIT.

CUB offers that the Commission is not bound to maintain this unreasonable delay in returning ratepayer funds, as *stare decisis* does not apply to Commission decisions. *City of Chicago v. People of Cook Cty.*, 133 Ill. App. 3d 435, 440–441 (1st Dist. 1985); *S. Austin Coal. Cmty. Council v. Commonwealth Edison Co.*, Docket No. 02-0706, Order at 6 (Jan. 11, 2005). Further, the issue is on appeal before the Appellate Court of Illinois from Ameren's 2019 formula rate update proceeding. *See generally* Appellate Court of Illinois, Fourth Dist., Court Case No. 4-20-1015.

CUB maintains 35 years is too long for ratepayers to wait for a refund and there is no legal, financial, or practical justification for the delay. CUB also contends the disbursement of funds collected from current and recent AIC customers across three and a half decades violates the principle of intergenerational equity. To ensure timely recovery and that the excess funds are returned to the generation of ratepayers who provided these funds, CUB urges the Commission to revisit the matter of the amortization period for the return of excess accumulated deferred income tax balances to customers. CUB asserts a shorter timeline has no negative effect on either AIC or ratepayers. CUB maintains that the Commission should reduce the amortization period from 35 years to 7, refunding the balances to customers over a reasonable timeline with a more equitable outcome for ratepayers.

TCJA reduced the federal corporate income tax rate from 35% to 21%, beginning after December 31, 2017. Docket No. 19-0436, Final Order at 15; AG Ex. 1.0 at 2. This 14% reduction decreased the Company's income tax expense, creating an identified $496.7 million of excess accumulated deferred income taxes ("excess ADIT" or "EDIT"). *Id.* Excess ADIT is separated into two groups: (1) balances that are "protected" and are limited by Internal Revenue Code ("IRC") normalization rules and (2) balances that are "unprotected" for which the Commission has discretion to establish the amortization period. *Id.* These unprotected EDIT balances are further divided into property related and non-property related balances. *Id*. In the 2019 Order, the Commission approved a 7-year amortization period for non-property related unprotected balances and a 35-year amortization period for property related unprotected balances, based on ARAM. *Id.* at 34–36. The IRC requires normalization using the ARAM for protected property, but not for unprotected property. AG Ex. 1.0 at 4.

CUB contends the use of the ARAM to determine the normalization period for unprotected property-related balances is unreasonable, and the law does not require it. CUB proposes to apply the same 7-year amortization period to both property-related and not-property-related unprotected EDIT balances, aligning the two categories, which CUB considers a more equitable approach. AIC customers paid rates based on the assumption that the Company would then remit those deferred tax collections to a government taxing authority. TCJA's 14% reduction in the federal income tax rate means a portion of pre-2018 collections from customers of deferred income taxes exceed AIC's future income tax liability. Ameren no longer needs these funds to pay its taxes and therefore, CUB asserts, the Company should refund this excess ADIT to customers as soon as possible. The credit of excess ADIT reduces the revenue requirement measurement of cost of service but will not directly impact the cost of service itself. Thus, CUB argues, acceleration of the refunds to customers will not negatively impact AIC's credit standing.

The principle of intergenerational equity dictates that the amortization period for the refund of ratepayer funds be as short as possible. Each year, CUB notes, Ameren loses customers who paid pre-TCJA rates that contributed to the excess ADIT balance and adds new customers who did not. Therefore, CUB reasons, the longer the amortization period extends into the future, the less of the refund goes to the customers who paid the funds being returned. CUB contends a 7-year amortization period would better adhere to the principle of intergenerational equity by more closely aligning the customers who the funds are returned to with the customers who provided the funds being returned.

CUB argues a shorter amortization period is consistent with the approaches public service commissions in neighboring jurisdictions have taken to amortization of EDIT stemming from TCJA. In 2018, the Missouri Public Service Commission adopted a 10-year amortization period for Ameren Missouri's unprotected excess ADIT balances. Docket No. 19-0436, Final Order at 16–17 (referring to Mo. Pub. Serv. Comm'n Docket ER-2018-0362, Order Approving Stipulation and Agreement (July 5, 2018)). Indiana has twice ordered unprotected excess ADIT balances be amortized over periods of less than 10 years. Indiana Michigan Power Company will amortize its unprotected excess ADIT balance over 6 years, while Indianapolis Power & Light will amortize its unprotected excess ADIT balance over 7. Docket No. 19-0436, Final Order at 17 (referring to the Final Orders in Ind. Pub. Serv. Comm'n Cause Nos. 44967 and 45029). Thus, considering evidence of the approach of surrounding states in conjunction with the fact that a shorter amortization period is used for unprotected non-property-related EDIT, CUB contends it cannot be argued that the acceleration of these funds is an unreasonable proposal.

For these reasons, CUB requests that the Commission use its discretion based on the evidence in this docket to reduce the amortization period of unprotected property-related EDIT to 7 years. Courts repeatedly have confirmed the authority of the Commission to reconsider similar issues in later proceedings and come to a different determination based on the evidence presented. The Commission "is not a judicial body, and its orders are not *res judicata* in later proceedings before it." *Commonwealth Edison Co. v. Ill. Commerce Comm'n*, 51 N.E.3d 788, 794 (Ill. 2016) (quoting *Miss. River Fuel Corp. v. Ill. Commerce Comm'n*, 116 N.E.2d 394, 396 (Ill. 1953). "The concept of public regulation includes of necessity the philosophy that the commission shall have power to deal freely with each situation as it comes before it, regardless of how it may have dealt with a similar or even the same situation in a previous proceeding." *Miss. River Fuel Corp.*, 116 N.E.2d at 396–97. There is no *res judicata* from Commission decisions. *Id.*

In sum, CUB argues that the evidence in this proceeding demonstrates that 7 years is a reasonable recommendation, is more equitable to AIC customers than AIC's proposal, will not have a negative impact upon the Company's cost of service or credit rating, and is consistent with the actions taken recently by public service commissions in neighboring jurisdictions.

d. Staff's Position

Staff argues the Commission should reject AG witness Selvaggio's proposal to amortize the EDIT related to non-protected property over five years rather than the 35 years proposed by the Company. Staff notes Ms. Selvaggio acknowledges that her proposal is the same as that proposed by AG witness Brosch in Docket No. 19-0436 that was rejected by the Commission. *See Ameren Ill. Co*., Final Order, Docket No. 19-0436, 18-25, 34-36 (Dec. 16, 2019). Staff notes that while none of the facts surrounding the Commission decision in the earlier case have changed, Ms. Selvaggio's recommendation is based upon the fact that the decision in Docket No. 19-0436 is on appeal and it might be overturned, and upon the fact that the COVID-19 pandemic has increased unemployment rates. AG Ex. 1.0 at 5; AG Ex. 2.0 at 5. Staff argues no new evidence has been provided by the AG for the Commission to change the decision it reached just eight months ago.

Staff recommends that the Commission adopt the position taken by Ameren witness Stafford and allow Ameren to continue to amortize EDIT over 35 years, based on the remaining useful life for the unprotected property-related EDIT. *See* Ameren Ex. 1.0, 46-47; Ameren Ex. 12.0 at 8; Ameren Ex. 16.0 at 6. Staff notes this is the same position that the Commission approved in an Ameren gas case in Docket No. 18-0463, that Staff took in Docket No. 19-0436, and that the Commission approved in Docket No. 19-0436. In its Order in Docket No. 19-0436 the Commission concluded:

> In the interest of equitable ratemaking, the Commission has previously determined that it is in the best interest of ratepayers to align the amortization of EDIT with the useful life of the underlying assets, allowing customers to pay a smoother, more normalized cost over time. The Commission sees no reason to depart from that now.

Ameren Ill. Co., Docket No. 19-0436, Order at 36 (Dec. 16, 2019).

Staff argues since the AG has offered no new reason for the Commission to depart from its prior decision, the Commission should affirm the same conclusion as it reached in Docket No. 19-0436 and adopt Ameren witness Stafford's position in this docket.

e. Commission Analysis and Conclusion

As AIC and Staff correctly note, the Commission has approved AIC's proposed amortization period for EDIT, and rejected the AG's arguments, in Docket No. 19-0436, in ComEd's 2018 formula rate case, *see Commonwealth Edison Co.,* Docket No. 18-0808, Order at 57-58 (Dec. 4, 2018), and in ComEd's 2019 formula rate case. *See Commonwealth Edison Co.,* Docket No. 19-0387, Order at 37 (Dec. 4, 2019). The AG has not shown that any circumstances have changed since those cases warranting a different outcome, and in the absence of such a showing, the Commission would consider approval of any different amortization period to be arbitrary. CUB's position, unsupported by any of its own evidence, should also be rejected for the same reasons.

Regarding the AG's argument that Section 16-108.5(c)(4)(F) of the Act requires Ameren to apply a five-year amortization period to its unprotected property-related excess deferred taxes, this argument is unsupported by the evidence and disregards the impacts of such an interpretation on federal tax law and the amortization of all EDIT, not only the unprotected property-related EDIT that is the subject of the AG's proposal in this proceeding. The Commission notes that although CUB has taken a similar position advocating for a shorter amortization period for unprotected property-related EDIT, CUB has not offered this statutory argument in support thereof. Section 16-108.5(c)(4)(F) applies to specific charges or credits that exceed $3,700,000 in a calendar year, but the AG's argument failed to identify any evidence in the record that the excess deferred taxes at issue here exceeds that statutory limit. Therefore, the record does not support a conclusion that the statutory threshold has been met.

For these reasons, the Commission rejects the arguments of AG and CUB, and approves again Ameren's use of the ARAM methodology for all property-related excess deferred taxes, both protected and unprotected, or a 35-year proxy where ARAM is not feasible.

2. Executive Compensation Expense

a. AIC's Position

AIC notes that it is a participating utility in the State's infrastructure investment program under EIMA. As such, AIC explains, it has elected to recover its delivery services costs through a performance-based formula rate approved by the Commission. This is the ninth annual update to Ameren's formula rate. And in each update, the Commission approves a revenue requirement based on the Company's "actual costs" for the prior year. 220 ILCS 5/16-108.5(c) & (d)(1). The utility still has the burden of proof that its "actual costs" are prudently incurred and reasonable in amount. 220 ILCS 5/16-108.5(b-5) & (c)(1). But "[t]he sole fact that a cost differs from that incurred in a prior calendar year or that an investment is different from that made in a prior calendar year shall not imply the imprudence or unreasonableness of that cost or investment." 220 ILCS 5/16-108.5(c)(1).

AIC notes that one such actual cost ordinarily recoverable in rates is the compensation paid the utility's officers, if reasonable in amount. *Village of Milford vs. Ill. Commerce Comm'n*, 20 Ill.2d 556, 565-566 (1960) (total operating expenses, including officers' salaries, were not excessive). In this update, Ameren requests recovery of its actual costs of executive compensation, excluding the earnings-based incentive compensation and Performance Share Unit Program ("PSUP") costs that Ameren self-disallowed in its direct filing. *See* Ameren Ex. 1.0 at 39, 41-42, 45. AIC notes that, in total, Ameren self-disallowed approximately $2.44 million in 2019 and 2020 incentive compensation and PSUP capital, and $5.27 million in 2019 incentive compensation and PSUP expense. Ameren Ex. 1.3 at 30-39, 201-210 (adjustment for 2019 and 2020 incentive compensation and PSUP capital); *Id*. at 125-126, 134-135 (adjustment for 2019 incentive compensation and PSUP expense).

AIC offered testimony that an employee's compensation is often more than just his or her base pay; incentive compensation contingent on short- or long-term performance is also frequently a common, necessary, and important part of an employee's compensation. Ameren Ex. 13.0 at 4. In today's competitive market, it would be difficult for Ameren Corporation to attract and retain employees, if incentive compensation was not included as part of total compensation package. *Id*. In turn, incentive compensation enables Ameren to engage employees and motivate them to continuously improve their performance and achieve important business goals. *Id*. Like many of its peers, Ameren relies on third-party proprietary survey data to set the market-competitive range for base and incentive (short- and long-term) compensation levels for each position. *Id*. at 5. AIC argues this best practice confirms that Ameren offers competitive, reasonable compensation.

Ameren notes that the AG proposes to remove from the revenue requirement the costs for compensation for the five highest-paid officers of Ameren. AG Ex. 1.0 at 8-9. AIC argues that its rebuttal testimony explained why the AG's adjustment was inappropriate: it removes the entire amount of compensation for certain Ameren officers, without any evidence that the cost is unreasonable. As Ms. Hasenfratz, Ameren's Director of Compensation & Performance, described in her testimony, Ameren requires employees of all levels, including executive leadership, to run its business and serve customers. Ameren Ex. 13.0 at 18. AIC states that to maintain that workforce, Ameren must fairly compensate those employees consistent with the market. Ms. Hasenfratz testified that Ameren's executive compensation levels are reasonable because they reflect the market value that corresponds to the position and the skills, expertise, and experience that the employee brings to the position. *Id*. AIC states that, in contrast, the AG's witness admitted that she had no knowledge or understanding of the levels of total compensation offered to executives in the energy industry market, and no opinion on the minimum level of total compensation that a utility should offer to attract or retain executive employees. *Id.*

AIC explains that the standard for cost recovery in the formula rate case is whether the utility's actual cost was prudently incurred and reasonable in amount. AIC asserts that it is not appropriate to just base an adjustment on whether the cost increased from the year before, or whether another utility chose not to pursue recovery of that cost. The AG does not dispute that Ameren must compensate its executives. Ameren Ex. 13.0 at 19. But, AIC argues, the AG disregards that Ameren must compensate employees consistent with the market, including pay increases commensurate with experience and performance, to attract and retain the talented workforce necessary to provide service. *Id*. For these reasons, AIC contends that the AG's adjustment lacks support and is contrary to the plain language of EIMA.

AIC notes that Staff, in its direct case, proposed to disallow the 2019 costs of life insurance coverage and financial planning benefits, as well as costs of compensation paid to officers in the form of Restricted Stock Units ("RSUs"). Staff Ex. 1.0 at 10-12. AIC explained these compensation components and their costs are in line with industry practice, measured against peer data, and necessary to ensure that Ameren has experienced, productive, and stable leadership. Ameren Ex. 13.0 at 6-12. In addition, there are avoided costs of reduced turnover (*e.g.*, the cost to recruit, hire, and train new employees and the cost of lost productivity). *Id.* at 13. AIC also explained that, in the case of RSUs, which are awarded based on continued employment, the Commission had previously approved recovery of the related costs. *Id.* at 13-14. On rebuttal, Staff accepted Ameren's explanations, deemed the information sufficient, and withdrew its adjustments. Staff Ex. 5.0 Cor. at 4-8.

In response to the AG, AIC states that the AG did not explain why executive compensation costs should be partially shareholder-funded or why the AG's adjustment constitutes the appropriate "sharing." AIC states the AG simply made a couple of random observations: the total compensation awarded to Ameren CEO's increased in 2019 and Commonwealth Edison Co. ("ComEd") voluntarily removed the compensation costs of certain executive officers. *Id*. at 8-9. AIC notes the AG offered no explanation why these observations are relevant.

AIC notes that the AG did not withdraw its adjustment in its rebuttal case, but rather expanded it. Now the AG proposes to disallow the costs for compensation for the five highest-paid officers of Ameren and also the RSU costs for other officers. Ameren Ex. 17.0 at 3. In total, between the filing and reconciliation years, the AG proposes to disallow over $5 million in expenses. These disallowances would be in addition to the significant self-disallowances that the Company already made for its 2019 compensation costs. The AG continues to contend that "[r]equiring ratepayers to fund the fully allocated cost of executive compensation is not reasonable." AG Ex. 2.0 at 9. AIC argues that the AG, however, still offers no support for this position. AIC notes the AG's argument that ComEd's voluntary disallowance of executive compensation costs derived "a reasonable cost level to be recovered from jurisdictional ratepayers." *Id*. But AIC states that the AG does not explain why another utility's self-disallowance determines the reasonable amount of executive compensation costs to recover in rates. AIC points out that the AG's argument also ignores Ameren's points that the Company needs executive leadership to run its business and provide service and performs a rigorous review of peers and market data to make sure that it fairly compensates those employees. Ameren Ex. 17.0 at 3-4. AIC concludes that this evidence demonstrates that Ameren's executive compensation costs are prudently incurred and reasonable in amount.

AIC notes the AG's claim that Ameren's executive compensation is "very high" (AG Ex. 2.0 at 9) and notes that the AG, however, does not offer any relative compensation level. Ameren Ex. 17.0 at 5. AIC observes that the AG also has not offered an opinion on what compensation any particular officer should receive. *Id*. at 9. AIC references Ms.

Hasenfratz's testimony that benchmarking against similar positions at other utility companies allows Ameren to align its compensation programs with the market. *Id*. at 5. AIC states this approach ensures that the compensation paid to officers is reasonable and prudent, when compared to similar positions within the peer group. *Id*. AIC notes that in its rebuttal case, the AG again repeats its observation that compensation for Ameren's CEO increased in 2019. AG Ex. 2.0 at 9. AIC argues that this fact alone, without any market comparison, is meaningless. AIC further states that the comment also ignores that much of the compensation for Ameren's CEO is either not recovered in rates or not yet paid out. Ameren Ex. 17.0 at 4-5. AIC argues the AG's observation does not support its adjustment.

AIC notes that the AG also suggests that the Company is asking ratepayers "to fund the total executive compensation costs of Ameren for an unlimited number of officers." AG Ex. 2.0 at 9. AIC asserts that this allegation is disingenuous, and in no way supported by the evidence in the record. As the Company stated in its response to data request AG 5.03, "[t]he number of officers is determined based on business needs." AG Ex. 2.2C at 4. AIC stresses Ms. Hasenfratz's testimony that when determining the need for an Officer position, Ameren considers "span of control, critical and strategic nature of the work, and succession needs in order to ensure continuity of leadership team in preparation for upcoming retirements." Ameren Ex. 17.0 at 6. AIC states there is no evidence in the record to suggest that Ameren employs more officers than what its operations require.

AIC observes the AG also points to the increase in number of Ameren and Ameren Services Company ("Ameren Services") officers from January 2018 to December 2019 in support of its theory that there are no limits on the number of Ameren executives. AG Ex. 2.0 at 10. AIC argues that this constitutes a two-year period and not the appropriate comparison in a formula rate proceeding. More importantly, AIC argues, the AG has not identified any officer position that the AG believes is imprudent. AIC notes that the AG did not even ask Ameren in discovery to identify the positions being filled or to justify the increase in the number of officers. Ameren Ex. 17.0 at 6. AIC argues that this is a textbook example of an unsupported adjustment that is prohibited by EIMA and would be inadequate in a traditional rate case. AIC notes that the AG admits that Ameren needs to hire or promote employees to fill officer positions. *Id*. at 7. But the AG has not offered any analysis to justify a disallowance for any of the positions filled since January 2018.

AIC notes the AG calls the increase in Ameren officers during this two-year period "especially concerning." However, AIC argues the Company has explained the increase. See Ameren Ex. 17.0 at 7. As Ms. Hasenfratz explained, there must be "an organizational structure that provides strategic leadership and oversight of critical areas of focus in order to ensure operational excellence, disciplined cost management and customer satisfaction." *Id*. at 8. From January 2018 through December 2019, each of the newly added officers accomplished that goal.

As for the AG's incremental adjustment to remove the costs of RSUs awarded to officers, as noted above, AIC points out that Staff withdrew that adjustment based on Ameren's rebuttal case. AIC explains that RSUs are not awarded based on corporate performance, such as earnings per share; rather they are awarded based solely on employment with the Company. Ameren Ex. 13.0 at 13. They are a common component of compensation for officers, and encourage and reward longevity, which benefits customers not only by providing an experienced leadership team, but also by avoiding the productivity loss and replacement costs associated with turnover. Ameren Ex. 17.0 at 9.

Moreover, AIC argues, the Commission approved recovery of RSU costs in Ameren's' last formula rate update, Docket No. 19-0436, and Ameren's last gas rate case, Docket No. 18-0463. The Commission also recently approved recovery of RSU costs for another utility in a contested case. In that case, the Commission expressly found that "RSUs are stock units that vest over a defined period of time based solely on continued employment and are not subject to or based on financial metrics for the benefit of shareholders. The Commission holds that employee longevity provides a tangible benefit to ratepayers through reduced expenses and the creation of greater efficiencies in operations due to a more seasoned workforce." *Nicor Gas Co.*, Docket No. 18-1775, Order at 82 (Oct. 2, 2019). AIC notes the AG's claim that the Commission has a "history of not allowing the recovery of such costs." AIC argues the AG cites older ComEd cases (Docket Nos. 10-0467 and 11-0721) and ignores the much more recent Commission orders that have allowed such recovery.

AIC notes that the AG highlights the total compensation awarded to Ameren's CEO in 2019, and claims, without any analysis, that the average person would not find this level of compensation reasonable. AIC argues there are several flaws to this point. First, the AG ignores that much of the compensation awarded Ameren's CEO in 2019 is neither recovered in rates nor yet paid out. Ameren Ex. 17.0 at 4-5. Second, AIC argues the AG has not introduced any expert evidence of comparable levels of compensation that utility CEOs received in 2019. AIC notes the AG's expert admitted that she did not have any knowledge or understanding of the levels of compensation offered to executives, including CEOs, in the energy industry market in 2019. Ameren Ex. 13.1 at 3; Ameren Ex. 17.1 at 3.

AIC also notes the AG's observation that the number of Ameren officers increased from four in January 2018 to nine in December 2019. According to AIC, the AG acknowledges that the Company addressed the added positions in its surrebuttal testimony, but the AG claims that the Company provided "no explanation of need or cost or benefit for five of the six new or transferred positions." AG Init. Br. at 14. AIC argues that this assertion is not true; the record shows that each added position during this two-year period was the result of an internal transfer or promotion. Ms. Hasenfratz testified on surrebuttal that the additional Ameren officers were reasonable and prudent. Ameren Ex. 17.0 at 8. Her surrebuttal testimony identifies the added positions, whether the position was the result of a transfer or a promotion, and the critical area of operations. *Id*. at 7. Her testimony also explains that the Company "must put in place an organizational structure that provides strategic leadership and oversight of critical areas of focus in order to ensure operational excellence, disciplined cost management and customer satisfaction." *Id*. at 8.

AIC notes the AG tries to support its adjustment by pointing out that ComEd reduced its executive compensation costs in its current formula rate case. Granted, this is true; ComEd excluded certain compensation costs. AG Init. Br. at 14 n.3. But Ameren did as well: $2.44 million in capital costs and $5.27 million in O&M. AIC states that the AG does not explain which officers were included in ComEd's adjustment or why. AIC further states the AG does not compare the number of utility and service company officers included in the costs recovered in ComEd's jurisdictional rates. Yet, AIC argues, the AG boldly claims that

ComEd's requested executive compensation costs are "a reasonable cost level to be recovered from jurisdictional ratepayers." AIC says that it cannot be the case that the AG suggests that the Commission should forego an individualized review of Ameren's costs and just approve the same revenue requirement for both utilities. That approach would be arbitrary and offensive.

AIC argues that the point of formula rate updates is to review each utility's actual costs and judge their prudence and reasonableness based on the evidence in record, not based on some other utility's self-disallowance (about which little information is provided). The AG argues that its adjustment is "in line with Illinois regulatory practice." AG Init. Br. at 14. But AIC says that is based solely on the example of the unspecified ComEd self-disallowance in its current proceeding. AIC argues one example does not even constitute a pattern, much less a practice.

The AG contends that its adjustment to remove executive compensation costs results in "a more reasonable and just cost-sharing allocation." AIC states that Staff, after reviewing the AG's proposed adjustment, disagreed. *See* Staff Ex. 5.0 Corr. at 21. AIC notes the AG's claim that the executive compensation it proposes to exclude "should be paid by shareholders." AIC responds that, as suggested by Staff, the AG's so-called "allocation" is arbitrary. AIC accordingly urges the Commission to reject the AG's adjustment.

Turning to the AG's suggestion that Ameren has not demonstrated that RSU costs provide a "direct benefit" to ratepayers, AIC states that the AG's theory is based on a fundamental misunderstanding of the Company's RSUs. The AG claims that the "RSUs not only reward the employee for remaining an employee, but they link compensation to the performance of the Company's stock, aligning the officer's interests with shareholders' interests." AG Init. Br. at 17. AIC responds that there is no evidence in the record to support that contention. AIC asserts that the evidence in the record shows the exact opposite. Ms. Hasenfratz explained repeatedly in her direct, rebuttal, and surrebuttal testimony that "RSUs represent the right to receive stock depending solely on an employee's continued employment with Ameren through a defined vesting period. They are awarded to encourage retention and longevity with Ameren." Ameren Ex. 13.0 at 12.

For these reasons, AIC says that the AG's reliance on *People ex rel. Madigan v. Ill. Commerce Comm'n*, 2011 IL App (1st) 100654 (2011) is misplaced. The RSU costs in this case, based on the undisputed record evidence, are not tied in any way to Ameren's financial performance. The AG's attempt to draw an analogy to the result in *Madigan*, which upheld the Commission's decision to disallow incentive compensation costs based on financial goals, is misleading. That decision in no way supports the exclusion of the Company's RSU costs.

AIC concludes that the Commission should reject the AG's adjustments to executive compensation. They are not supported by the manifest weight of the evidence in the record and are inconsistent with the plain language of EIMA and Commission precedent.

b. AG's Position

The AG argues that executive compensation expenses should be reduced by the removal of the costs related to the total compensation (base salary and incentive costs) for the five highest paid officers of Ameren and RSU benefits. The AG states the record does not support a finding that the level of these expenses is just and reasonable, nor does the record support a finding that the proposed executive compensation expenses provide a direct benefit to ratepayers as required by Commission practice. *People ex rel Madigan v. Ill. Commerce Comm'n,* 2011 IL App (1st) 100654. Nor, the AG argues, does the record establish a "financial safeguard" that would justify treating stock awards differently from other incentive compensation tied to the firm's financial performance.

The AG explains that a portion of the compensation of Ameren's President and Chief Executive Officer is allocated to Ameren's electric customers. His total compensation is over $9 million in 2019, which represented a 15% increase from the 2018 compensation of over $8 million. AG Ex. 1.0 at 9. Executive compensation expenses, as with any expenses for which Ameren seeks recovery from ratepayers, must be supported by substantial evidence establishing that the costs are just and reasonable and provide a direct customer benefit. *People ex rel Madigan v. Ill. Commerce Comm'n,* 2011 IL App (1st) 100654. "[Substantial evidence] is evidence that a reasoning mind would accept as sufficient to support a particular conclusion." *Commonwealth Edison Co. v. Ill. Commerce Comm'n,* 405 Ill.App.3d 389, 398 (2010) (internal quotations and citations omitted). The AG argues that the average person may well not find this level of compensation reasonable, particularly for a company providing electric distribution, an essential monopoly service, under a formula rate process that guarantees profits at a statutorily mandated rate. Accordingly, the AG argues that compensation at this level should be paid by shareholders.

The AG argues this adjustment is consistent with established Commission policy that has been memorialized as legal precedent. In *Commonwealth Edison Co. v. Ill. Commerce Comm'n,* 398 Ill.App.3d 510 (2nd Dist, 2009), the Court upheld a Commission decision that denied the utility's claim for 100% ratepayer recovery based on the alleged consumer benefit that an earnings per share incentive plan attracted good employees resulting in upgraded customer service. The AG notes the Court found "[s]uch a benefit is too remote." *Id.* at 518. In addition to the fact that stock awards by their nature incentivize executives and officers to promote shareholder interests, the AG argues, the standard now remains that the benefit from incentive compensation makes the company more attractive to current and prospective employees is too remote to support full cost recovery from ratepayers. The AG notes that a departure from past practice is entitled to less deference on appeal. *Ameren Ill. Co. v. Ill. Commerce Comm'n, 2012 IL App (4th) 100962, ¶61.*

The AG notes that Ameren acknowledges "[i]t would be extremely difficult to not only quantify or measure the benefit to customers of a stable workforce, but also demonstrate that reduced expenses and the creation of greater efficiencies in operations are the direct result of a stable workforce, …." Ameren Ex. 13.0 at 15. The AG contends that removal of the costs of compensation for the five highest Ameren officers does not require the Commission to parse compensation as base, incentive, or otherwise. Rather, the AG argues, it is a fair and straight-forward approach to recognize that Ameren's executive compensation is so much above what an Ameren ratepayer would consider reasonable that an adjustment that shares that cost with shareholders is reasonable.

The AG contends the record does not contain substantial evidence supporting a finding that Ameren's actual employee compensation costs "are prudently incurred and reasonable in amount consistent with Commission practice and law." 220 ILCS 5/16-108.5 (c)(1). The AG recommends a reduction to disallow the cost of RSUs for all officers and to disallow the cost of the compensation for the five highest paid executives.

c. Staff's Position

Staff recommends the Commission decline to adopt the adjustment proposed by AG witness Selvaggio, which would remove the costs of executive compensation for the five highest paid officers of Ameren Corporation. AG Ex. 1.0 at 8-9. Staff witness Pearce testified that while Ms. Selvaggio asserted her executive compensation adjustment permits a sharing of the costs of executive compensation between ratepayers and shareholders, she did not provide a rationale beyond (a) a description of executive compensation based on information from the 2020 Proxy Statement of Ameren Corporation; and (b) the observation that ComEd self-disallows the cost of its five highest paid executive officers. Staff Ex. 5.0 Cor at 21. Based on this rationale, Ms. Pearce inferred that Ms. Selvaggio thinks it is reasonable for the Company to recover 0% of these salaries from ratepayers and 100% of these salaries from shareholders. *Id*.

In Staff's view, the record does not support a conclusion that zero-cost recovery of these salaries is reasonable. Staff notes that the Commission declined to approve a 50/50 cost sharing of Board of Directors' expenses at issue in Docket No. 10-0467, premised on a rationale similar to that which the AG relies upon in the current proceeding. *Commonwealth Edison Co*., Order, Docket No. 10-0467, 101 (May 24, 2011).) Accordingly, Staff does not support the AG's proposal to disallow 100% of these executive salaries. Staff Ex. 5.0 Corr. at 20-22.

d. Commission Analysis and Conclusion

The AG argues Ameren's executive compensation is beyond "what an Ameren ratepayer would consider reasonable." However, the AG, has offered no evidence in this proceeding regarding a reasonable amount of compensation for any utility executive position. Cherry-picking a single value from Ameren's proxy statement, without providing any context on either the portion included in the revenue requirement or comparable levels of compensation awarded other utility CEOs, is not credible, reliable evidence or probative of what level of compensation is reasonable. The Commission gives it no weight.

EIMA "precludes disallowances that are solely based upon differences from what was incurred as a cost or investment in previous years." *Commonwealth Edison Co.*, Docket No. 11-0721, Order at 33 (May 29, 2012); *see also Ameren Ill. Co.*, Docket No. 16-0262, Order at 16-18 (Dec. 6, 2015) (rejecting Intervenors' adjustment to service company charges); *Ameren Ill. Co.*, Docket No. 14-0317, Order at 34 (Dec. 10, 2014) (rejecting Intervenors' adjustment to Material and Supplies inventory balance). The AG has offered no analysis to justify disallowing any of the positions filled. Nor has the AG identified any officer position that it believes is imprudent. Furthermore, the AG has not explained if any of the added officer positions relate to its adjustment. The Commission agrees with Ameren that this is the type of adjustment that is prohibited by the Act. To suggest that Ameren has not explained the need or benefit of the transferring or promoting employees to officer positions during this two-year period is not persuasive based on the evidence that the Company submitted.

The AG has not established that ComEd's self-disallowance is relevant or analogous. There is no point of comparison between the actual executive compensation costs that ComEd and Ameren incurred on their books in 2019. Contrary to the AG's assertions, ComEd's adjustment is not "precedent" to be followed here. The Commission declines to adopt the AG's adjustment to remove the compensation costs of Ameren's five highest paid officers.

The Commission also declines to adopt the AG's adjustment to remove RSU costs. The Company's RSUs are not awarded based on Ameren's financial performance, such as its earnings per share ("EPS") or other corporate performance. In this way, they are different than incentive compensation costs that the Company does self-disallow like the PSUP costs. The AG claims that the Company failed to establish that RSU costs provide a "direct benefit" to ratepayers. The record shows that RSUs are a common component of compensation for officers, and encourage and reward longevity, which benefits customers not only by providing an experienced leadership team, but also by avoiding the productivity loss and replacement costs associated with turnover. This evidence of "tangible ratepayer benefits" provided by the Company is why Staff withdrew its similar adjustment.

The Commission agrees with the Company that the relevant Commission decision is Docket No. 18-1775, which finds that: "RSUs are stock units that vest over a defined period of time based solely on continued employment and are not subject to or based on financial metrics for the benefit of shareholders. The Commission holds that employee longevity provides a tangible benefit to ratepayers through reduced expenses and the creation of greater efficiencies in operations due to a more seasoned workforce." *Nicor Gas Co.*, Docket No. 18-1775, Order at 82 (Oct. 2, 2019). Contrary to the AG's assertions, Ameren has carried its burden of proof and the law and the facts support recovery of the Company's costs.

3. Board of Directors Expense

a. AIC'S Position

AIC characterizes the AG's proposed adjustment to the Company's 2019 Board of Directors fees and expenses ("Board Expenses") as "preposterously large." In its initial filing, the Company proposed Board Expenses in the amount of $1,088,311, which AG witness Selvaggio proposed to reduce by 91% to a "reasonable level" of $96,195, based on the cost-per-customer of Board Expenses at ComEd. Subsequently, the Company voluntarily reduced Board Expenses to $636,201, to exclude certain expenses not included in director compensation. AG Ex. 1.0 at 6-7. AIC observes that Ms. Selvaggio, however, continues to maintain that Board Expenses should be limited to $96,195. AG Exs. 2.0 at 7-8; 2.1, Sch. 2.

AIC argues the evidence shows that: the compensation paid to the Board was properly determined, reasonable, and appropriate in amount, and consistent with industry norms; compensation paid to the Board has not increased unreasonably since 2016; and the ComEd cost-per-customer is not a reasonable basis for calculating director compensation. AIC urges the Commission to reject the AG's proposed adjustment.

AIC witness Shade provided an overview of the compensation of the Board. Like all corporations, Ameren is required under state law to maintain a board of directors that is responsible for oversight of the corporation's management. As a public utility holding company whose assets consist of the ownership interests in its subsidiaries, including Ameren, the exercise of the Board's responsibilities requires oversight of the operations of Ameren's subsidiaries. Ameren Ex. 15.0 at 3. The Board exercises its oversight largely through the conduct of its five standing committees that are focused on different aspects of Ameren's business. Under Ameren's bylaws, the size of the Board is limited to at least three, and no more than 21 directors.

AIC explains that Ameren and the Board are subject to certain rules and regulations of the New York Stock Exchange ("NYSE") and Securities and Exchange Commission ("SEC") arising out of: (1) the listing of Ameren's common stock on the NYSE; and (2) the registration of securities by Ameren with the SEC and the public disclosure obligations that relate to such registration. Ameren Ex. 15.0 at 3. AIC states that these rules and regulations include numerous corporate governance provisions that, among other things, set forth specific requirements for the composition and responsibilities of a listed company's board.

AIC points out that many of the NYSE and SEC regulations with which Ameren must comply, together with a steadily increasing focus among investors on corporate governance practices, have served over time to materially increase the time commitment and level of expertise required of public company directors. Ameren Ex. 15.0 at 4. Mr. Shade explained that it is not surprising that average director compensation and related board expenses have similarly increased in response to these demands. *Id*. at 4-5.

AIC explains that the Board's compensation consists of: (1) a base cash retainer paid to all Board members; (2) an additional cash retainer for each board committee on which a director serves, as well as an additional cash retainer for the Board's lead director;and (3) an annual grant of shares of common stock having a specified aggregate market value at the time of the award. Ameren Ex. 15.0 at 5.

AIC further explains that the Board determines its compensation in a manner designed to achieve pay that is consistent, in form and value, with the market median for its peer companies. Under its charter, the Board's Nominating and Corporate Governance Committee ("NCGC") is required to annually review the Board's policy for components and amount of director compensation and benefits and to recommend any proposed changes to the Board for approval. *Id*. AIC notes that as part of its annual review, NCGC requests information from its independent compensation consultant, Meridian Compensation Partners, LLC ("Meridian"), a leading independent compensation consultant that advises the boards of many Fortune 500 companies with respect to both director and executive compensation practices. *Id*. Meridian provides the NCGC with a benchmarking analysis of Ameren's director compensation against a peer group of investor-owned utility companies that are similar to Ameren in business makeup, dividend characteristics and volatility of stock. AIC explains that based on that analysis, Meridian may offer potential changes to Ameren's director compensation program to remain consistent with the market.

AIC states that in October 2018, Meridian prepared a report that compared Ameren's 2018 director pay program to a group of 20 peer companies. Ameren Ex. 15.0 at 6. The report found that Ameren's 2018 total director compensation had fallen slightly below the median level of its peer group as a result of average increases over the prior year of 6% among Ameren's peer group. *Id*. The report offered several alternative changes to the director compensation program that would keep Ameren commensurate with its peers. NCGC recommended, and the Board approved, changes to the director compensation program to take effect January 1, 2019. Ameren Ex. 15.0 at 6. AIC observes that as a result, for those directors who served for the full calendar year (11 directors), the average 2019 compensation was $251,286.

AIC states that the AG proposes to reduce the 2019 Board Expenses from the revised level of $636,201 by $540,006, or approximately 85%, to just $95,195. AG Ex. 2.2, Sch. 2. The AG's adjustment is based on Ms. Selvaggio's comparison of the per-customer cost of allocated Board Expenses for Ameren with the per-customer cost for ComEd. AG Ex. 2.0 at 7.0. Ms. Selvaggio contends that ComEd's per-customer cost of $0.079 is "more reasonable" than the Ameren electric distribution per-customer cost of $0.52. AIC notes that Ms. Selvaggio discounts Ameren's reliance on the Meridian report, and states that the 2019 average director compensation represents an increase of over 21% from the 2016 level.

AIC argues that the higher per-customer cost at Ameren versus ComEd does not mean the Ameren expense level is unreasonable. AIC explains that the AG's adjustment arbitrarily and incorrectly assumes that Board Expenses are somehow related to a utility's number of customers and/or the number of its affiliates within a holding company system. AIC contends that the AG is effectively penalizing Ameren for not having: (1) a larger number of customers; or (2) a greater number of affiliated companies across which Ameren can allocate its Board Expenses. In fact, as Mr. Shade explained, Board Expenses are independent of these factors and are instead driven by the legal, regulatory and market forces that apply to publicly traded companies. Ameren Ex. 15.0 at 8. AIC argues that a per-customer metric cannot fairly be used to determine whether a given level of Board Expenses is reasonable, and it is therefore an invalid basis for an adjustment to these expenses.

AIC asserts that every available metric other than Ms. Selvaggio's arbitrary per-customer cost indicates that Ameren's level of director compensation is reasonable and not excessive. As discussed above, the Ameren director compensation is based on a relevant market study and is consistent with the average director compensation at Ameren's peers. AIC further explains that for 2019, average director compensation (including cash and stock components) among directors serving for the full calendar year was $251,286 at Ameren (11 directors) and $324,350, or 29% higher, at Exelon (12 directors). *Id*. Total 2019 director compensation (cash and stock components) was $3,132,595 at Ameren (14 directors, including three directors who served only partial years) and $4,088,085, or 31% higher, at Exelon (14 directors, including two directors who served only partial years). *Id*.

AIC argues that there are two significant drivers of the difference in per customer cost. First, Ameren and ComEd are members of two very different utility holding company systems. Ameren has three primary operating subsidiaries (Ameren Missouri, Ameren Illinois and Ameren Transmission Company of Illinois), while Exelon has eight operating subsidiaries (a competitive generation business, an energy sales and marketing business, and six regulated transmission and distribution utility businesses). Ameren Ex. 15.0 at 9. Accordingly, although Exelon's total and average per-director compensation expense for 2019 appear to have been higher than Ameren's, Exelon's board compensation expenses can be allocated across a larger number of operating businesses. AIC contends that ComEd, therefore, receives a proportionally smaller share of total board expenses than Ameren. *Id*.

Secondly, AIC argues, ComEd has a substantially higher number of electric customers across which board compensation expenses can be allocated (over 4 million customers, as compared with Ameren's approximately 1.2 million customers). *Id*. AIC asserts that it is arbitrary and unreasonable to apply a per-customer metric to an expense that is unrelated to and independent of the number of businesses or customers within the respective operating systems. AIC argues that Ameren should not be punished financially for not benefiting from membership in a larger holding company system or serving a less populous area. *Id*.

AIC asserts that the Board function is a critical one for publicly traded companies, and the level of compensation implied by Ms. Selvaggio's recommendation would fundamentally frustrate the operation of this function. Ameren Ex. 19.0 at 3. AIC contends that Ms. Selvaggio's adjustment implies total 2019 Ameren director compensation of just $281,935, which represents only about 9% of the Board's total compensation expenses for 2019. AIC argues that in light of the market data provided by Meridian that the Board uses to inform its compensation decisions, which are based on readily available public disclosures, this amount would clearly be unreasonable and inadequate to attract and retain qualified directors. *Id*. AIC observes that to operate at the level implied by Ms. Selvaggio's adjustment, Ameren would have to cut the number of directors from the current 14 to three, which is the minimum required by its charter, and even then, the three directors would be compensated below market levels. *Id*. Moreover, AIC argues, such a small board size would necessarily result in reduced oversight of and involvement by the Board in corporate activities and would be so inconsistent with peer practices that it would be entirely unsupportable by Ameren's equity or debt investors. *Id*. at 3-4. AIC further explains that, alternatively, if Ameren were to attempt to reduce individual director compensation to a small fraction of that offered by its peers, it would almost certainly produce a board lacking the requisite experience and skill sets required not only under NYSE listing standards and SEC rules, but also by the well-developed market practices that support responsible and effective oversight of Ameren's businesses, which the Commission and the AG should ultimately encourage Ameren's Board to follow.

AIC rejects Ms. Selvaggio's contention that the Meridian reports "[do] not account for the number of directors at each company within the peer group, the total compensation of all board members or board expenses other than compensation [and therefore] may not account for all factors that should be considered in the analysis." AG Ex. 2.0 at 7. AIC explains that the retention of a director is a transaction between the corporation and an individual director, who will not be evaluating the total amount the corporation spends on its board function, but rather the level of compensation she is being offered in exchange for the responsibilities she will assume. Ameren Ex. 19.0 at 4. Therefore, the analysis performed by the Board of Directors in determining director compensation must focus on the level and type of compensation to be paid to each director on an individual basis. There are no other material "factors in the analysis" of that transaction that the Meridian report somehow overlooks. AIC asserts that it cannot avoid a market-driven cost simply because Ms. Selvaggio thinks it is excessive. *Id*. AIC states that Ameren has acted, and will continue to act, reasonably and responsibly with respect to director compensation. There is no identifiable alternative approach to setting director compensation by which Ameren could retain quality directors in the number and with the experience and skill sets required to operate in a responsible manner. *Id*. at 4-5.

AIC notes Ms. Selvaggio's assertion that the Ameren director compensation has increased 21% since 2016 and is therefore unreasonable. AG Ex. 2.0 at 7. AIC responds that Ms. Selvaggio offers no data, however, to demonstrate—or even suggest—that such an increase might be unreasonable. AIC observes that use of the Meridian reports each year allows the Ameren Corporation Board to set compensation at levels consistent with the market in which it operates. Ameren Ex. 19.0 at 3. AIC asserts that Ameren cannot simply disregard market forces and offer compensation at a fraction of what its peers are offering.

AIC argues that the AG offers no legitimate basis for reducing the level of Board Expenses to a fraction of the level proposed by Ameren and urges the Commission to reject the AG's adjustment in its entirety.

b. AG's Position

The AG notes Ameren's Board member compensation consists of a base cash retainer, additional cash retainer for each board committee on which the member serves, an additional cash retainer for the lead director, and an annual grant of common stock, averaging $251,286 for eleven directors. Ameren Ex. 15.0 at 5. The AG maintains the company's per-customer Board cost of $0.52 is unreasonable and asks the Commission to consider that ComEd's electric distribution company's per-customer cost is $0.079.

The AG argues AIC did not address Illinois-specific information, such as the huge disparity between the amount Ameren electric customers pay for Board expenses compared to the amount Commonwealth Edison Company customers pay.

The AG argues that although ComEd is part of a larger organization, the record does not establish the basis for corporate management costs to be so out of proportion to the size of the company or the number of customers expected to pay those costs. In deciding whether a cost is just and reasonable and subject to recovery from ratepayers, the AG asserts the Commission should consider both what is paid by other Illinois electric customers and the total compensation received by various directors, although ultimately the relevant information is how much customers are being asked to pay for directors of a delivery-only electric monopoly that receives the benefits of annual formula ratemaking and reconciliation.

The AG acknowledges an Ameren witness's testimony that "[p]aying reasonable, market-based compensation to maintain a board that meets the demands of the public company governance structure has identifiable benefits for ratepayers." Ameren Ex. 29.0 at 8. The AG argues, however, that a broad statement of benefit without metrics to back it up is not substantial evidence sufficient to establish the fact. The AG states it is Ameren's burden to present such substantial evidence to recover from ratepayers. *Commonwealth Edison Co. v. Ill. Commerce Comm'n*, 405 Ill.App.3d 389, 398 (2010) (internal quotations and citations omitted).

The AG contends the record does not support a finding that Ameren's claimed Board expenditures are just and reasonable. The AG asks the Commission to find that an adjustment of $540,000 in Board costs as reflected in 2019 jurisdictional operating expenses (*see* AG Ex. 1.1 Sch. 2) is consistent with the record in this proceeding.

c. Staff's Position

Staff recommends the Commission reject AG witness Ms. Selvaggio's adjustment to Board Expense. AG Ex.1.1, Sch. 2; AG Ex. 2.0. Staff witness Pearce addressed this adjustment in her rebuttal testimony. Staff Ex. 5.0 Corr. at 19-20. Ms. Pearce observed that Ms. Selvaggio utilized the cost per customer for ComEd's Board costs to derive her adjustment. Ms. Pearce observed that ComEd had 4,021,991 total electric customers in 2018 compared to AIC's 1,220,681 electric customers in 2018, and that using Ms. Selvaggio's methodology, even if the Board costs were the same amount, ComEd's cost per customer would be significantly less than AIC's cost per customer simply because ComEd has so many more customers. *Id.* at 20. Staff witness Pearce noted that Ms. Selvaggio did not argue that each member of the AIC Board should receive a lower amount of compensation for their duties than a ComEd Board member, but her methodology would preclude full recovery of AIC Board costs unless that were the case. As such, Staff does not believe that the AG's methodology to calculate this adjustment is reasonable.

d. Commission Analysis and Conclusion

Based on the evidence, the Commission concludes that AIC's proposed Board Expenses are reasonable and should be approved. The record shows that Ameren must maintain a board sufficient in size to oversee its operations, and the AG has offered no evidence that the Ameren Board is excessive in size. The record also shows that Ameren Corporation takes reasonable steps to set director compensation at an appropriate level. The Meridian report assesses the compensation paid to directors at Ameren's peer companies, and Ameren sets its director compensation consistent with that assessment. Further, the AG's proposed adjustment assumes a level of director compensation that would be grossly inadequate to fund a board that would satisfy federal, state and stock exchange requirements. The public interest would not be served by a lack of effective oversight from the Board. Moreover, the AG's comparison of the cost per customer at AIC and ComEd is irrelevant and cannot serve as the basis for a valid adjustment to Board Expenses. The cost per customer is a poor metric because it results from factors beyond Ameren's control (number of customers, number of companies in a holding company system) that play no role in determining director compensation in the marketplace. The Meridian report provides a more sound rationale for setting director compensation than cost per customer, as its analysis is focused on the market factors that shape recruitment efforts. In the Commission's view, the datapoints considered in the Meridian report are more germane to the determination of reasonable compensation than the cost per customer approach adopted by the AG. Accordingly, the AG's adjustment is rejected.

4. Advertising Expense (Voucher No. 3637279)

a. AIC'S Position

AIC states the Act mandates that electric utilities shall be allowed to recover advertising expenses in rates. 220 ILCS 5/9-225(3). The categories of expense expressly recoverable under the Act include advertising that informs consumers about how to "conserve energy" and "reduce peak demand." *Id*. They include advertising regarding "safety measures." *Id*. They include advertising that promotes "the use of energy efficient appliances, equipment or services." *Id*. And they include advertising that "encourages the off-peak usage of the service." *Id*.

AIC explains that there are some exceptions, noting that "political" advertising is generally not recoverable. 220 ILCS 5/9-225(2). That is defined as "any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance." 220 ILCS 5/9-225(1)(b). "Promotional" advertising is also typically not recoverable. 220 ILCS 5/9-225(2). That is defined as "any advertising for the purpose of encouraging any person to select or use the service or additional service of a utility or the selection or installation of any appliance or equipment designed to use such utility's service." 220 ILCS 5/9-225(1)(c). And "goodwill or institutional advertising" is usually not recoverable. 220 ILCS 5/9-225(2). That is defined as "any advertising either on a local or national basis designed primarily to bring the utility's name before the general public in such a way as to improve the image of the utility or to promote controversial issues for the utility or the industry." 220 ILCS 5/9-225(1)(d). AIC explains that these categories of expense are only recoverable if the Commission finds them "to be in the best interest" consumers or otherwise expressly authorized. 220 ILCS 5/9-225(2). "Other" advertising expenses that do not fit into a specific category are also recoverable in rates, provided they are not political, promotional, institutional, or goodwill. 220 ILCS 5/9-225(3).

AIC notes that for every formula rate update filing (and traditional rate case), Ameren prepares advertising workpapers for Staff pursuant to Section 295.40 of the Administrative Code. Ameren Ex. 1.0 at 45. AIC explains that these workpapers include copies of the actual advertisements published in the prior calendar year (e.g., 2019). The workpapers also include an excel file with detailed information on the advertising expenses. *Id*. AIC explains that to prepare these workpapers for each update filing, a team of Ameren personnel review each advertisement to confirm that the related expense is recoverable in rates. Ameren Ex. 14.0 at 4. As a result of this review, Ameren identifies certain advertising expenses for disallowance. *See, e.g.*, Ameren Ex. 1.3 at 131-132. AIC notes that in its direct filing in this case, Ameren self-disallowed approximately $259,000 in advertising expense. *Id*. On rebuttal, Ameren then agreed to remove an additional $26,000. Ameren Ex. 12.4.

AIC states that the Commission, in recent update proceedings, has ruled upon the recoverability of Ameren's advertisements that concern reliability investments. In Docket Nos. 15-0305 and 16-0262, the Commission found that advertisements concerning investments that Ameren was making under the EIMA were recoverable in rates. The Commission specifically found that "any goodwill engendering from these ads was ancillary to their intended purpose, which appears to be focused on increasing awareness of grid improvements and alerting customers to the EIMA reliability investments that Ameren is making." *Ameren Ill. Co.*, Docket No. 16-0262, Order (Dec. 6, 2016) at 29; *see also Ameren Ill. Co.*, Docket No. 15-0305, Order (Dec. 9, 2015) at 47 ("the record shows that the primary purpose of Ameren Illinois' EIMA-related infrastructure improvement ad campaign is to educate customers, not to enhance the public image of Ameren Illinois despite any ancillary benefits of this kind").

AIC notes the Commission's holding that the reliability ads were "designed primarily to inform and engage customers on Ameren Illinois' efforts to fulfill its EIMA investment requirements." Docket No. 15-0305, Order at 47; *see also* Docket No. 16-0262, Order at 29 ("The Commission finds, as it did in Docket No. 15-0305, that these ads were designed primarily to educate customers."). The Commission also found that there was "a need for education with respect to how EIMA infrastructure improvement projects impact customers and believes it is important for Ameren Illinois customers to be informed of EIMA-related investments, their impact on system reliability, and other customer benefits involved." Docket No. 16-0262, Order at 29. The Commission considered "consumer education to be a critical component in the State's efforts to modernize electrical infrastructure, with an emphasis on the importance of such education in constructing a 21st century grid for Illinois." Docket No. 15-0305, Order at 48.

AIC argues that, in these prior cases, the Commission also set forth the standard for determining whether an advertisement should be disallowed as goodwill or promotional advertising. First, "there must be sufficient evidence in the record on the 'purpose' or 'design' of the advertisement." Docket No. 15-0305, Order at 46; Docket No. 16-0262, Order at 26. Second, "the party proposing the adjustment to a 'goodwill' advertisement must show that 'the promotional aspect of the advertisement outweighs the message of the advertisement.'" Docket No. 15-0305, Order at 46; Docket No. 16-0262, Order at 27. The Commission explained the burden of proof that was on the party proposing an adjustment: "while the burden to establish the reasonableness of an expense is initially on the utility, it shifts to the party proposing the adjustment . . . to establish that the ads were 'designed primarily' to improve the image of the utility." *Id*. The Commission also described an ad "designed primarily" as goodwill: "the record evidence must show that the main purpose of the challenged advertising was to promote the utility's image, and the fact that the advertisement may provide a favorable impact to the utility's image, if that is ancillary to the message, is not determinative." Docket No. 16-0262, Order at 27."

AIC points out that Staff proposes that the Commission disallow an additional $243,000 in advertising expense that she considers promotional and goodwill advertising. Ameren Ex. 14 at 4. This amount represents the allocated electric distribution expense for voucher number 3637279. When considering the filing year and reconciliation year impacts, AIC says that the adjustment to remove the costs for this voucher would reduce Ameren's revenue requirement by approximately $488,000. Ameren Ex. 18.0 at 2.

AIC states that the costs at issue are production costs for three different broadcast and digital advertisements for television, web videos and radio that highlighted Ameren's commitment to providing its customers with reliable service. Ameren 14.0 at 5. AIC explains the invoiced amounts are the costs that Ameren paid its outside vendor, Hughes Leahy Karlovic ("HLK") to create the concepts, storyboard the design, edit the scripts, and shoot and edit the advertisements. Ameren Ex. 18.0 at 3. The advertisements included 30 second TV and radio commercials and 15 second online videos with localized variations per commercial. The reliability messaging of the advertisements educated customers about system upgrades and directed customers to Ameren's reliability website for more information on smart meters and reliability projects in specific areas of Ameren's' service territory. *Id*.

AIC notes Staff's claim that these advertisements seek "to increase customer satisfaction with Ameren Illinois system upgrades." Staff Ex.1.0 at 14. Staff conceded that the advertisements "focus on reliability messaging and education about how Ameren Illinois upgrades are positively affecting customers." *Id*. In Staff's opinion though, they are still "primarily promotional and goodwill in nature." AIC contends that the evidence in the record, however, does not support Staff's claim, and Staff has not demonstrated that the costs should be disallowed as goodwill.

AIC notes that contrary to Staff's assertions, the reliability advertisements associated with voucher number 3637279 were not designed primarily as goodwill. The advertisements were designed to be dynamic and catch the eye of customers to draw them in with further information around reliability and infrastructure improvements. Ameren Ex. 14.0 at 8. Their purpose was to educate and engage customers about improvements happening and take the action of visiting the Ameren reliability website to find out more information about improvements in their area and the grid of the future. As Ameren witness Kennedy explained in his testimony, "[i]n tying infrastructure improvement information to reliability with engaging and educational subject matter, the primary intent of the advertising is to encourage customers to take action by visiting our website or paying more attention to their energy usage." *Id*. at 6.

AIC witness Kennedy's described the focus and educational component of each advertisement and included a link to each 30 second advertisement. Ameren Ex. 14.0 at 11-12. AIC states two of the advertisements, "Thinking About the Future of Energy" and "Happy Holidays from Ameren Illinois", focused on upgrades that Ameren made to the electrical grid to cost-effectively improve reliability. The third advertisement, "Your Fuzzy Friend", educated customers on the installation of smart meters in the Ameren service territory to provide real-time data so that customers can control their energy usage and costs.

AIC acknowledges that the design of the reliability advertisements at issue in this case uses a slightly different approach compared to the advertisements that the Commission reviewed in Docket Nos. 15-0305 and 16-0262. The advertisements at issue in those cases highlighted Ameren personnel and contractors as job sites installing the actual assets. Ameren Ex. 14.0 at 8. The advertisements in this case hit on the results of the grid investments: safe and reliable service and real-time data to manage energy usage. *Id*. at 8-9. AIC notes the scripts continue to highlight the installation of smart meters and other advanced technology as infrastructure improvements that benefit customers and continue to direct customers to Ameren's website for more information about specific upgrades in their area. *Id*. AIC argues that while the imagery in these advertisements may differ from other reliability advertisements that Ameren has published, the focus of the advertisements remains the same: inform Ameren's customers about EIMA-related investments, their impact on system reliability, and the other customer benefits realized from the improvements. AIC argues that these reliability advertisements respond to the need that the Commission recognized in Docket Nos. 15-0305 and 16-0262 for education with respect to how EIMA reliability investments impact customers. *Id*. AIC asserts that for these reasons, the Company considers the expenses associated with these reliability advertisements to be recoverable in rates.

AIC notes Staff's continued objection to the recovery of the 2019 expense for voucher number 3637279 in rebuttal. Staff objects to the advertisements' "positive imaging with a message that the Company's upgrades are making life better for Ameren Illinois customers and their pets, children, and families." Staff Ex. 5.0 Cor. At 15. Staff still claims that this imagery has the primary purpose of "increase[ing] customer satisfaction with Ameren Illinois system upgrades." AIC argues that Staff has not identified any evidence to support this assertion. AIC notes that Mr. Kennedy testified that the "primary purpose of these advertisements is to educate customers on reliability efforts in Illinois and urge them to visit the Company's website for additional information." Ameren Ex. 18 at 6. AIC asserts that the fact the advertisements use "positive" images in the advertisements does not in any way prove Staff's point. AIC contends that one would hope that advertisements about the benefits of Ameren's reliability investments would deliver a "positive" message that Ameren is improving the reliability of its grid.

AIC notes Staff's critique that the "very general information" in the advertisements is more evidence that the message "is clearly designed to elevate the Company's image rather than impart useful information to benefit customers." Staff Ex. 5.0 Cor. At 15. But as Mr. Kennedy pointed out, these advertisements are broadcasted to the entirety of Ameren service territory, which is large and diverse. Ameren Ex. 18.0 at 5. AIC says that to maintain relevance in all geographic areas and to remain cost-effective, the messaging is broad, but also encourages customers to visit the website for specific information on projects and upgrades happening in customers' respective area.

AIC also notes Staff's criticism of the advertisements as "holiday" greetings. Staff Ex. 5.0 Corr. at 13, 15. AIC notes that these advertisements, however, were not only published during the holidays. Ameren Ex. 18.0 at 6. Two of the advertisements have a year-round reliability focus. The third advertisement was seasonal in nature, focusing on the winter months. *Id*. AIC contends that Staff is incorrect in suggesting that these advertisements were only broadcasted during the holidays.

AIC notes Staff's claim that the advertisements were "revised to increase the likelihood of recoverability by adding to the reliability messaging." Staff Ex. 5.0 Corr. at 14. Staff argues that the fact that the advertisements were revised to add reliability messaging "demonstrates that reliability messaging was not the Company's primary intent with this advertisement" and "seems to suggest the reliability messaging was an afterthought." *Id*. As Mr. Kennedy points out however, making messaging revisions is standard practice in the production of advertisements. Ameren Ex. 18.0 at 6.

AIC explains that in this instance, upon review of the draft advertisements, Ameren's internal subject matter experts made revisions to emphasize the reliability message. HLK, the vendor that created the initial versions, offered options and drafts for consideration. The Ameren team, however, refined those creative concepts to reflect what the Company considers important to communicate to customers. *Id*. In these advertisements, AIC asserts that critical message is reliability. The vendor may often have a general idea of the themes that the Company wants to focus on. AIC points out that the back and forth discussions and adjustments to the content and design of the advertisements, however, are important in ensuring that the advertisement both educates and informs the customers, while also keeping their attention. *Id*. at 6-7.

AIC notes that Staff "calls into question whether the Company's desire to rehabilitate the questionable advertisement was more important than communicating the reliability messaging and betrays the motive for the advertisement in the first place." Staff Ex. 5.0 at 14. AIC asserts that there is no basis in the record though for that accusation. As Mr. Kennedy explained, educating customers about grid improvements and their positive impact on reliability has been a cornerstone of Ameren's external messaging for many years. Ameren Ex. 18 at 7. AIC explains that the Company's advertising messages are reviewed periodically, and adjustments are made. The specific advertisements may look different from year to year, but the core goal remains the same: help customers understand how their resources are being deployed to build a safe and reliable energy delivery system. *Id*. AIC states that to capture the attention of the viewer and compel them to take additional steps to educate themselves about the energy grid and reliability, and website offerings, it is important to refresh the design and production of the advertisements on a periodic basis. AIC argues that Staff's speculation on the intent of the advertisements does not support an adjustment.

AIC argues that Staff's testimony does not show that the main purpose of the advertisements is to improve Ameren's image. AIC maintains the primary purpose of these advertisements is to educate and engage customers about energy system improvements in the Ameren service territory and encourage them to take action to visit the Ameren reliability website to find out more information about improvements in their area. AIC explains that any favorable impact to Ameren's image is ancillary to that message and not a basis to disallow the expense from rates. AIC proposes that for these reasons, the Commission should reject Staff's proposed adjustment to advertising expense.

AIC notes Staff's argument that "an adjustment is necessary to prevent the Company from disguising promotional or goodwill advertisements as reliability messaging." AIC contends that Staff, however, offers no evidence of any attempt by the Company to "disguise" the purpose of these advertisements. Contrary to Staff's assertion, AIC contends the emphasis on reliability was not "afterthought." Reliability was front and center in the production of these advertisements.

AIC urges the Commission to find that expenses associated with these reliability advertisements are recoverable in rates.

b. Staff's Position

Staff argues the Commission should accept Staff witness Pearce's proposed adjustment to reduce the cost of advertising in the amount of $243,103 on the basis that such charges are designed primarily for promotional and goodwill purposes. Staff Ex. 1.0 at 14. In support of her adjustment, Ms. Pearce cited Section 9-225 of the Act which expressly states in part:

> In any general rate increase requested by any gas or electric utility company under the provisions of this Act, the Commission shall not consider, for the purpose of determining any rate, charge or classification of costs, any direct or indirect expenditures for promotional, political, institutional or goodwill advertising, unless the Commission finds the advertising to be in the best interest of the Consumer or authorized as provided pursuant to subsection 3 of this Section.

220 ILCS 5/9-225. Goodwill or institutional advertising is defined as:

> . . . any advertising either on a local or national basis designed primarily to bring the utility's name before the general public in such a way as to improve the image of the utility or to promote controversial issues for the utility or the industry.

Staff Ex. 1.0 at 13-14, *citing* 220 ILCS 5/9-225.

Ms. Pearce described her adjustment as 2019 costs for an advertising campaign during the holiday season to increase customer satisfaction with AIC system upgrades. Ms. Pearce explained that the advertisement portrays three different scenarios that could occur in the home life of an AIC customer. Each scenario combines positive imaging with a message that the Company's upgrades are making life better for AIC customers and their pets, children, and families. The advertisement closes with wishes for a warm and bright holiday season from Ameren. Ameren Ex. 14.1 at 8, 14.

Staff asserts the voiceover for each advertisement contains a message that promotes the Company through its focus on installing smart meters (Ameren Ex. 14.1 at 4-5.), as well as building the smart grid and using technology to inspect and replace gas pipelines (*Id*. at 5-6) to increase system reliability. The voiceover in one advertisement promotes the Company's investments in the electric and gas distribution systems and the resulting reliability of its system and ends with a holiday greeting. Staff witness Pearce testified that this portion of the advertisement provides very general information about the enhanced systems being built by AIC and the message is clearly designed to elevate the Company's image rather than to impart useful information to benefit customers. Staff Ex. 5.0 Corr. at 15.

Staff notes that the customer-focused informational part of the advertisement is limited to what is shown in the Appendix. Ameren Ex. 14.1 at 12-14. These pages contain links to the Company's websites where customers can obtain information about tools and programs to manage their energy use. Staff Ex. 5.0 Corr. at 15.

Staff witness Pearce noted that the advertisement was revised to include focus on reliability messaging and education about how AIC upgrades are positively affecting customers. Staff argues that AIC witness Kennedy's assertions that the primary goal of these spots is to: 1) educate and engage customers about improvements; and 2) to encourage customers to visit the AIC website to find out more information about current and future improvements to their area's electrical grid is unreasonable. In response to Mr. Kennedy, Ms. Pearce noted that the Company itself determined the need to revise the advertisement with reliability messaging. Staff argues the Company's revision supports Ms. Pearce's adjustment because it demonstrates that reliability messaging was not the Company's primary intent with this advertisement. Additionally, Ms. Pearce noted the fact that the Company chose to add reliability messaging to an existing ad whose recoverability was questionable, rather than put the reliability messaging in a separate advertisement. Staff argues this choice by AIC suggests the reliability messaging was an afterthought. Based on the entirety of this information, Ms. Pearce asserts that a revision to the advertisement was made because the Company was concerned about recoverability of costs, and an adjustment is necessary to prevent the Company from disguising promotional or goodwill advertisements as reliability messaging for the purpose of making such advertisements recoverable in rates. Staff Ex. 5.0 Corr. at 13-14.

Staff notes that AIC witness Kennedy argued that the informational aspects of the advertisement outweigh the promotional aspects of the advertisement and support ratepayer recovery of those costs. He cited to language in the Commission Orders in Docket Nos. 15-0305 and 16-0262 (both of which relate to electric distribution formula rate updates) to support his argument, asserting that the Commission's language in these two Orders has "set forth a standard for determining whether an advertisement should be disallowed as goodwill or promotional advertising." Ameren Ex. 14.0 at 7. According to Mr. Kennedy, this standard comprises two elements: (1) there must be sufficient evidence in the record on the "purpose" or "design" of the advertisement; and (2) the party proposing the adjustment to a "goodwill" advertisement must show that "the promotional aspect of the advertisement outweighs the message of the advertisement." Ameren Ex. 14.0 at 7. In addition to this new "standard," Mr. Kennedy cited an excerpt from the Final Order in Docket No. 16-0262 which he claims shifts the burden of proof from the utility to the party proposing the adjustment to establish that the advertisements were designed primarily to improve the image of the utility. *Id*. at 7-8.

Staff witness Pearce responded to these arguments noting that the Commission's Orders speak for themselves and it is well established that the concept of res judicata does not apply to Commission Orders. Second, she opined that while two Commission Orders can certainly provide guidance for the evaluation of contested costs in a ratemaking proceeding, they do not constitute a new "standard" or otherwise represent binding precedent. Third, Ms. Pearce noted that the Act places the burden of proof on the utility to demonstrate that costs included in rates are just and reasonable. 220 ILCS 5/9-101. To that end, she asserted the burden is on the Company, based on the evidentiary record, to show the contested advertisements provide sufficient customer information to justify recovery of their costs from ratepayers, and that the contested advertisements are not primarily promotional and goodwill in nature (and thus unrecoverable in rates according to the standards within the Act that prohibit recovery from ratepayers of advertising expenses of a promotional, goodwill, or institutional nature). Staff Ex. 5.0 Corr.at 12-13.

Accordingly, Staff witness Pearce asserted that the primary purpose of this advertisement is to increase customer satisfaction with AIC system upgrades and to promote the image of AIC. Therefore, Staff recommends the Commission accept Ms. Pearce's proposed adjustments, found in Staff Ex. 5.0 Corr., Schedules 5.11 FY and RY, to remove this portion of advertising expense from the revenue requirement in this proceeding.

c. Commission Analysis and Conclusion

Staff argues the Commission should accept Staff witness Pearce's proposed adjustment to reduce the cost of advertising in the amount of $243,103 on the basis that such charges are related to advertisements that were designed primarily for promotional and goodwill purposes. AIC argues the charges for the advertising are recoverable from ratepayers because the ads educate consumers about reliability investments. The AG and CUB have taken no position on this issue.

The legal standard for recovery of advertising expenses in this proceeding arises from Section 9-225(2) of the Act, which allows recovery of advertising expenditures found to be "in the best interest of the Consumer" or authorized under several specific enumerated categories in Section 9-225(3) of the Act. Section 9-225(2) of the Act also prohibits recovery of "any direct or indirect expenditures for promotional, political, institutional or goodwill advertising." Goodwill advertising is defined in Section 9-225(1)(d) of the Act as "any advertising either on a local or national basis designed primarily to bring the utility's name before the general public in such a way as to improve the image of the utility or to promote controversial issues for the utility or the industry."

The Commission has stated the legal burdens for proving a particular advertisement to be a recoverable expense:

> The Commission also notes that the burden to demonstrate the reasonableness of a particular expense is on the utility proposing the expense, not the intervenors. *People ex rel. Hartigan [v. Illinois Commerce Comm'n*], 117 Ill.2d [120, 135 (1987)]. However, the party proposing the adjustment to a "goodwill" advertisement must show that "the promotional aspect of the advertisement outweighs the message of the advertisement."

See Commonwealth Edison Co., Docket No. 11-0721, Order at 102 (May 29, 2012). In other words, while the burden to establish the reasonableness of an expense is initially on the utility, it shifts to the party proposing the adjustment to establish that the ads were "designed primarily" to improve the image of the utility.

AIC cites previous Commission Orders in Docket Nos. 15-0305 and 16-0262, which found that advertisements that educated consumers regarding EIMA-related reliability investments to be recoverable, arguing that the ads at issue in this case likewise educate consumers about Ameren's reliability investments and therefore are not goodwill or promotional ads. In Docket No. 15-0305, the Commission found that the promotional value of the ads did not outweigh the ads' purpose of educating Ameren consumers about Ameren's EIMA-related reliability investments. Docket No. 15-0305, Order at 47. In its analysis, the Commission noted the evidence in the record that Ameren customers were unfamiliar with the overhaul of the State's electric infrastructure and agreed that the lack of knowledge indicated a need for consumer education with respect to how EIMA regulations and infrastructure improvement projects impact customers. The Commission also noted that the record showed the 2014 investment ads in question focused on "particular investments" and "types of benefits" which the advertisements that were excluded in 2013 lacked.

In Docket No. 16-0262, the Commission considered several categories of ads, one of which was "reliability improvements." The Commission considered four such ads which included specific references to Ameren's reliability upgrades, with imagery of Ameren's personnel and physical assets. Docket No. 16-0262, Order at 28. The Commission found those ads to be recoverable, noting that the primary purpose of those ads was to educate Ameren customers regarding the EIMA-related investments.

A review of the advertisements at issue in this case reveals that they are notably different in specificity, imagery, and focus than the ads described and decided upon in Docket Nos. 15-0305 and 16-0262. *See generally* Ameren Ex. 14.1. The Commission agrees with Staff's assessment that the ads relate only general and vague information about Ameren's reliability investments, providing only oblique references to advanced technology or smart meters. The ads contain significantly less informational and educational content than the advertisements in the previous dockets. This lesser degree of specificity is also paired with sentimental imagery showing happy but general domestic scenes, as opposed to the imagery considered in the previous dockets that showed Ameren employees or facilities. The overall effect of these ads, with less information being provided to customers both visually and verbally, cannot be said to be educational rather than promotional. The Commission hereby finds the evidence in the record supports the conclusion that the promotional value of the ads at issue outweighs their educational value and that Staff's proposed adjustment is appropriate.

C. Recommended Operating Revenues and Expenses

1. Filing Year

The Commission finds based on the decisions presented earlier on the various issues, that a reasonable amount for AIC's jurisdictional operating revenues and expenses for the filing year is shown on Appendix A, Schedule 1.

2. Reconciliation Year

The Commission finds, based on the decisions presented earlier on the various issues, that a reasonable amount for AIC's jurisdictional operating revenues and expenses for the reconciliation year is shown on Appendix B, Schedule 1.

VI. COST OF CAPITAL AND RATE OF RETURN

A. Uncontested or Resolved Issues

1. Capital Structure

Staff found that AIC's proposed capital structure reasonably balances the cost advantage of tax deductible interest expense that comes from employing debt as a source of capital against the financial strength needed to raise capital under most capital market conditions that comes from employing common equity as a source of capital. Staff and AIC also agree that AIC's proposed capital structure, which contains 50% common equity, complies with Section 16-108.5(c)(2) of the Act. No other party opposes AIC's proposed capital structure.

The Commission finds that the parties are in agreement on this issue and approves the agreed-upon original cost determination.

2. Cost of Capital and Overall Rate of Return on Rate Base

a. Filing Year

As shown in the table below, Staff and AIC agree that a capital structure comprising 49.158% long-term debt, 0.842% preferred stock, and 50.000% common equity is reasonable for setting rates for the filing year and the reconciliation year. Those parties further agree that a cost of long-term debt of 4.353% and a cost of preferred stock of 4.979% are reasonable for both the 2021 rate setting and the 2019 reconciliation. In addition, Staff agrees that AIC's bank facility costs add 2.0 basis points to AIC's weighted average cost of capital. Finally, Staff and AIC agree that the cost of equity is 8.382% which equals the 2.582% average of the twelve monthly 30-year U.S. Treasury bond yield averages in 2019, plus 580 basis points, as required under Section 16-108.5 of the Act. 220 ILCS 5/16-108.5(c)(3). The cost of equity for the 2021 revenue requirement is 8.382%. Further, Staff and AIC agree the cost of equity for the 2019 reconciliation year revenue requirement must be adjusted by 0.070% for performance metrics penalty. Thus, the cost of equity for the 2019 reconciliation year revenue requirement is 8.312% (8.382% minus the 0.07% performance metric penalty). Staff and AIC agree that the Commission should find that a reasonable overall rate of return for the filing year is 6.393%. No other party opposes AIC's proposed cost of capital or rate of return.

The Commission finds that the overall rate of return of 6.393% for the filing year is reasonable and uncontested, and it will be adopted for use in this proceeding.

Component	Weight	Cost	Weighted Cost
Long Term Debt	49.158%	4.353%	2.140%
Short Term Debt	0.000%	1.941%	0.000%
Preferred Stock	.842%	4.979%	0.042%
Common Stock	50.000%	8.382%	4.191%
Bank Facility Costs			0.020%
Total Capital	100.000%		6.393%

b. Reconciliation Year

The Commission finds that the overall rate of return of 6.358% for the reconciliation year is reasonable and uncontested, and it will be adopted for use in this proceeding.

Component	Weight	Cost	Weighted Cost
Long Term Debt	49.158%	4.353%	2.140%
Short Term Debt	0.000%	1.941%	0.000%
Preferred Stock	.842%	4.979%	0.042%
Common Stock	50.000%	8.312%	4.191%
Bank Facility Costs			0.020%
Total Capital	100.000%		6.358%

VII. RECOMMENDED REVENUE REQUIREMENT

The Commission finds, based on the determinations presented above on the various uncontested issues, that the agreed-upon net revenue requirement, which includes the revenue requirement for the filing year, the reconciliation adjustment with interest, and the return on equity ("ROE") collar adjustment, as shown on Appendix A, should be adopted for use in the proceeding. The new delivery services charges, effective beginning with the January 2021 billing period, will reflect this agreed-upon net revenue requirement, as well as the cost allocation, and rate design methods approved by the Commission in Docket No. 19-0877.

VIII. COST OF SERVICE/REVENUE ALLOCATION/RATE DESIGN

AIC submitted direct testimony and exhibits that indicated that updated Rate MAP-P pricing is based on the updated net revenue requirement and consistent with the cost allocation, revenue allocation, and rate design methodologies approved by the Commission in Docket No. 19-0877. Staff agreed the cost of service study and the rate design proposed by the Company are consistent with that approved by the Commission in Docket No. 19-0877 and should be used to determine the authorized rates based on the revenue requirement approved by the Commission in this Docket. No party took issue with AIC's pricing calculations.

Staff also recommended approval of the tariffs Ameren submitted as Schedule E-1 as it complies with the Commission's Order in Docket No. 19-0877. Schedule E-1 tariffs should be filed with the compliance filing Informational Sheets for Rate MAP-P.

IX. OTHER ISSUES

A. Uncontested Issues

1. Rider PER, HSS, and Rider HMAC

Staff and AIC agree on the updated Supply Costs Adjustment factors and the costs to be recovered through Supply Procurement Adjustment, power supply portion of CWC and the power supply portion of uncollectibles, through Rider PER and Rider HSS.

Additionally, Staff and AIC agree on AIC's calculation of the Rider HMAC base amount. No other party opposes these determinations.

The Commission finds that this issue is uncontested and approves the agreed-upon original cost determination in this Order.

B. Contested Issues

1. Formula Rate Changes – Schedules A-3 and A-4

a. AIC'S Position

AIC notes that in Docket No. 20-0426, Ameren proposed tariff Rider Modernization Action Plan – Reconciliation ("Rider MAP-R"), which seeks to implement reconciliation provisions for the time period after the Company is no longer allowed to update Rate MAP-P - Modernization Action Plan - Pricing ("Rider MAP-P"), or elects to no longer recover its delivery services costs through a performance-based formula rate approved by the Commission. In conjunction with that tariff filing, Ameren is proposing in this case two changes to the Rate MAP-P Schedules that correspond with the Rider MAP-R tariff filing.

AIC states that the first adjustment is to insert two additional lines into Schedule FR A-3 to allow for adjustments for the ROE credit or surcharge if the Reconciliation Year is for less than 365 or 366 calendar days. Ameren Ex. 1.0 at 9.

AIC explains that the second adjustment is to insert two additional lines into Schedule FR A-4 to allow for adjustments if the Revenue Requirement in effect during the Reconciliation Year is for less than 365 or 366 calendar days. *Id*. AIC explains that this includes the introduction of the term "Initial Variance before Collar" to accommodate an adjustment, if applicable, for a weighting calculation to address a scenario that a Formula Rate Reconciliation in an upcoming year, for any reason, was for less than a full calendar year. Ameren Ex. 16.0 at 15.

AIC explains that both changes allow for the final Reconciliation and ROE credit or surcharge to be calculated on less than a full calendar if applicability of the Rider MAP-R tariff provisions occur within a given calendar year. Ameren Ex. 1.0 at 9.

AIC explains that these changes are only activated if the formula rate is in effect for less than a full calendar year period. Ameren Ex. 12.0 at 15. Thus, the changes would be beneficial to have, even if Rider MAP-R is not approved, to address a scenario that a Formula Rate Reconciliation in an upcoming year, for any reason, was for less than a full calendar year. *Id*.

Staff took the position that the Rider MAP-R tariff should not be addressed in this docket but did specifically address the proposed changes to Schedule A-3 and A-4 of the Rider MAP-P tariff at issue here. Staff Ex. 1.0 at 19.

According to AIC, the AG oppose the changes on the grounds that the Commission should wait until Docket No. 20-0426 is completed to review and approve them. AIC states that, as indicated, the changes are beneficial on a standalone basis, even if Rider MAP-R is not approved. AIC notes that the AG otherwise offer no meaningful substantive reason to reject the changes. The AG does claim in testimony that the "implications of the changes in these schedules have not been fully reviewed and understood." AG Ex. 2.0 at 16. AIC asserts that the time and place to undertake such review was available (through discovery, testimony, etc.) to the AG in this docket.

AIC states that changes to Schedules A-3 and A-4 would be beneficial to have, even irrespective of Rider MAP-R, to address a scenario that a Formula Rate Reconciliation was for less than a full calendar year. AIC asserts that the AG do not offer any valid reason for not adopting the changes or delaying their adoption. AIC argues that the changes should be approved.

b. AG's Position

The AG opposes any modification to Schedule FR A-3 and Schedule FR A-4 in the instant proceeding in anticipation of either the termination of performance-based formula rate structure or a decision by Ameren to no longer recover delivery rates through a performance-based formula rate. Section 16-108.5(c) covers the applicable rate subsequent to a company no longer using the performance-based formula rate structure. 220 ILCS 5/16-108.5(c). Ameren also has filed a proposed tariff rider in a separate proceeding, Docket No. 20-0426, to address the reconciliation after formula rates end.

The AG claims that modifying Schedule FR A-3 and Schedule FR A-4 in this proceeding either serves to circumvent Section 16-108.5(c) or to make a ruling on issue pending in another proceeding. The AG requests the Commission decline to allow modification of either Schedule FR A-3 and Schedule FR A-4.

c. Staff's Position

Staff recommends that the Commission not reach a conclusion in this docket on AIC's proposed changes to formula rate Schedules A-3 and A-4 that correspond with the Rider MAP-R tariff submitted by the Company concurrently with the instant proceeding, and instead consider the matter in Docket No. 20-0426, the proposed Rider MAP-R tariff. Staff Ex. 1.0 at 18-19.

Staff notes that in his direct testimony in the instant proceeding, AIC witness Stafford proposed changes to Schedules A-3 and A-4 that correspond with the Rider MAP-R tariff submitted by the Company concurrently in Docket No. 20-426. Ameren Ex. 1.0 at 9. Because Rider MAP-R is a separate tariff filing and docketed proceeding with intervenors, Staff witness Pearce declined to consider the schedule changes proposed by Mr. Stafford in this proceeding. Staff Ex. 1.0 at 18-19.

In surrebuttal testimony, AIC witness Stafford continued to support the changes to schedules FR A-3 and FR A-4 to accommodate Rider MAP-R, asserting that whether or not Rider MAP-R is approved is not relevant, as these changes create no detrimental effect to the operation of the formula rates, and are only activated if the formula rate is in effect for less than a full calendar year period. Thus, he maintained the changes would be beneficial to have, even if Rider MAP-R is not approved, to address a scenario in which a formula rate reconciliation in an upcoming year was for less than a full calendar year. Ameren Ex. 16.0 at 15. Staff is not persuaded by AIC's arguments.

Staff notes that in her rebuttal testimony, AG witness Selvaggio concurred with Staff and concluded that the proposed changes to Schedules FR A-3 and FR A-4 in this proceeding should be consistent with the Commission's action concerning the Company's proposed Rider MAP-R. Therefore, she did not support the changes proposed by the Company to Schedules FR A-3 and FR A-4. AG Ex. 2.0 at 14-15.

d. Commission Analysis and Conclusion

Ameren has proposed two adjustments to formula rate Schedules A-3 and A-4, adding two lines to each schedule. The first change to schedule A-3 allows for adjustments for the ROE credit or surcharge if the Reconciliation Year is for less than 365 or 366 calendar days, and the second change to schedule A-4 allows for adjustments if the Revenue Requirement in effect during the Reconciliation Year is for less than 365 or 366 calendar days.

Staff and the AG both oppose Ameren's proposed adjustments, with Staff recommending that the Commission not decide the matter in this docket. CUB has taken no position. Ameren explains the rationale for these adjustments is that they correspond to schedule changes being proposed in Ameren's Rider MAP-R currently pending before the Commission in Docket No. 20-0426. Ameren argues the adjustments to formula rate Schedules A-3 and A-4 are beneficial even if the Commission declines to adopt them in Docket No. 20-0426. Both Staff and the AG disagree, arguing the Commission should decline to rule on the issue in this docket and instead consider the matter in Docket No. 20-0426. The Commission agrees with Staff and the AG and declines to rule on AIC's proposed adjustments to Schedules FR A-3 and FR A-4 in this proceeding. Accordingly, this issue will be considered in Docket No. 20-0426.

X. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

(1) Ameren Illinois Company d/b/a Ameren Illinois is an Illinois corporation engaged in the distribution and sale of electricity and natural gas to the public in Illinois, and is a public utility as defined in Section 3-105 of the Public Utilities Act;

(2) the Commission has jurisdiction over the parties hereto and the subject matter herein;

(3) the recitals of fact and conclusions of law reached in the Commission conclusions of this Order are supported by the evidence of record, and are hereby adopted as findings of fact and conclusions of law; the Appendices attached hereto provide supporting calculations for the approved rates;

(4) Ameren Illinois Company d/b/a Ameren Illinois' proposed update to its Rate MAP-P should be approved, subject to the conclusions contained herein;

(5) the rates herein found to be consistent with Public Acts 97-0616, 97-0646, and 98-0015 are based on Ameren Illinois Company d/b/a Ameren Illinois' FERC Form 1 for 2019;

(6) for purposes of this proceeding, the net original cost rate base for Ameren Illinois Company d/b/a Ameren Illinois' electric delivery service operations is \$3,195,117,000 for the 2019 reconciliation year and \$3,413,085,000 for the

2020 filing year;

(7) the rate of return that Ameren Illinois Company d/b/a Ameren Illinois should be allowed to earn on its net original cost rate base is 6.358% for the 2019 reconciliation year; this rate of return incorporates a return on common equity of 8.312%;

(8) the rate of return that Ameren Illinois Company d/b/a Ameren Illinois should be allowed to earn on its net original cost rate base is 6.393% for the 2020 filing year; this rate of return incorporates a return on common equity of 8.382%;

(9) the rates of return set forth in Findings (7) and (8) result in base rate electric delivery service operating revenues of $961,230,000 (reflecting the reconciliation and ROE Collar adjustments) and net annual operating income of $218,199,000 as shown on Appendix A;

(10) Ameren Illinois Company d/b/a Ameren Illinois' electric delivery service rates presently in effect are insufficient to generate the operating income necessary to permit AIC the opportunity to earn a fair and reasonable return on net original cost rate base consistent with Public Acts 97-0616, 97-0646, and 98-0015; these rates should be permanently canceled and annulled;

(11) the specific rates proposed by Ameren Illinois Company d/b/a Ameren Illinois in its initial filing do not reflect various determinations made in this Order regarding revenue requirement;

(12) Ameren Illinois Company d/b/a Ameren Illinois should be authorized to place into effect amended Rate MAP-P Informational Sheets and tariff pages based on changes in Docket No. 19-0877, consistent with the findings of this Order;

(13) Ameren Illinois Company d/b/a Ameren Illinois should be authorized to place into effect the Rate MAP-P tariff informational sheets designed to produce annual base rate electric delivery service revenues of $961,230,000, which represents a decrease of $48,682,000 (-4.82%); such revenues, in addition to other tariffed revenues, will provide AIC with an opportunity to earn the rates of return set forth in Findings (7) and (8) above; based on the record in this proceeding, this return is consistent with Public Acts 97-0616, 97-0646, 98-0015, and 99-0906;

(14) the new charges authorized by this Order shall take effect beginning on the first billing day of the January billing period following the date of the Final Order in this proceeding; the tariff sheets with the new charges, however, shall be filed no later than December 10, 2020, with the tariff sheets to be corrected thereafter, if necessary;

(15) the Commission, based on Ameren Illinois Company d/b/a Ameren Illinois' proposed original cost of plant in service as of December 31, 2019, before adjustments, of $7,785,149,000 and reflecting the Commission's determination adjusting that figure, unconditionally approves $7,437,037,000

as the composite original jurisdictional distribution services plant in service as of December 31, 2019;

(16) the Commission has considered the costs expended by Ameren Illinois Company d/b/a Ameren Illinois during 2019 to compensate attorneys and technical experts to prepare and litigate rate case proceedings and assesses that the amount included as rate case expense in the revenue requirements of $819,323 is just and reasonable pursuant to Section 9-229; this amount includes the following costs: (1) $0 associated with Docket No. 18-0807; (2) $780,905 associated with Docket No. 19-0436; and (3) $38,418 associated with Docket No. 20-0381; and

(17) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the tariff sheets at issue and presently in effect for electric delivery service rendered by Ameren Illinois Company d/b/a Ameren Illinois are hereby permanently canceled and annulled effective at such time as the new electric delivery service tariff sheets approved herein become effective by virtue of this Order.

IT IS FURTHER ORDERED that Ameren Illinois Company d/b/a Ameren Illinois is authorized to file new tariff sheets with supporting workpapers in accordance with Findings (12) and (13) of this Order, applicable to electric delivery service furnished on and after the effective date of said tariff sheets.

IT IS FURTHER ORDERED that Ameren Illinois Company d/b/a Ameren Illinois shall update its formula rate in accordance with this Order.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED: November 6, 2020
BRIEFS ON EXCEPTIONS DUE: November 20, 2020

Nicole Roth,
Administrative Law Judge